



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL REVISION APPLICATION NO. 51 OF 2024

. Devaji Ambuji Patil Sonawane
Age: 69 Years, Occu.: Agri & Business,
R/o. Sillod, Tq.Sillod, Dist.Aurangabad. ..Applicant
(Ori. Res.No.2)

Versus

- 1) Anjali W/o Sandeep Sonawane
Age: 38 years, Occu.: Household,
- 2) Tejaswini D/o Sandeep Sonawane
Age : 11 years, Occu.: Education
Under guardianship of
Respondent No.1 (1 & 2 Ori.Applicants)
- 3) Sandeep Devaji Sonwane
Age: 40 years, Occu.: Agri. & Business,
1 to 3 R/o. Ramkrushna Gruha Nirman
Housing Society, Plot No.17/Part/C,
Ramgopal Nagar, Padegaon,
Aurangabad. (Ori. Respondent No.1)
- 4) Mangalabai Devaji Patil Sonwane
Age: 60 years, Occu.: Household,
R/o Sillod, Tq.Sillod,
Dist.Aurangabad. (Ori. Respondent No.3)
..Respondents

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Advocate for Applicant : Mr. Jagdish V. Deshpande
Advocate for Respondent nos.1 & 2 : Mr. Abhishek Madhukar Hajare
Advocate for Respondent nos.3 : Ms.Anita Dattaraj Deshmukh

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CORAM : ABHAY S. WAGHWASE, J.

**RESERVED ON : 27 NOVEMBER, 2024
PRONOUNCED ON : 13 DECEMBER, 2024**

ORDER :-

1. Vide instant application, prayers are raised for quashing and setting aside the order passed by learned Additional Chief Judicial Magistrate, Court No.5, Aurangabad dated 29-11-2022 on application Exh.4 granting interim maintenance to respondent no.1 wife and respondent no.2 daughter in PWDVA Application No.731 of 2018 to the extent of applicant as well as Judgment dated 04-01-2024 passed by learned Additional Sessions Judge, Aurangabad in PWDVA Appeal No.196 of 2022.

2. It is submitted that present applicant is father-in-law of original informant / daughter-in-law, who had instituted proceedings under the Protection of Women from Domestic Violence Act (PWDVA) and had sought several reliefs including monetary reliefs against husband as well as in-laws. Learned Counsel for the applicant submitted that applicant has self acquired properties. That there is no evidence about property standing in joint family or any joint family income. That by virtue of his old age, applicant has to take care of his own health and needs. Learned Counsel took this court through the orders passed by learned Chief Judicial Magistrate (CJM) and First Appellate Court and according to him, the observations and findings

are in absence of cogent and reliable evidence. He would submit that both trial Court and appellate Court had no jurisdiction to ascertain whether the property was joint family property or otherwise, hence, he pointed out that exception has been taken by filing instant revision and aforesaid prayers are raised.

In support of his contention that father-in-law is not obliged to maintain daughter-in-law, he sought reliance on judgment dated 21-01-2016 of High Court of Gujarat at Ahmedabad in Special Criminal Application (Quashing) No.3993 of 2014 in the case of *Abdulrahim Abdulmiya Pirjada and another v. State of Gujarat and others*, wherein according to him, precedent laid down by Hon'ble Apex Court in the case of *S.R. Batra and another v. Taruna Batra (Smt.)*, (2007) 3 SCC 169 has been referred to.

3. While opposing the above submissions, learned Counsel for respondent nos.1 and 2 i.e. wife and children would submit that there is ample evidence about income of husband and present applicant to be having source of income from joint family properties. That balance sheet was placed before the lower Courts. The same has been considered and appreciated by both learned trial Court as well as First Appellate Court and as such according to him, in view of

judgment of this court in Criminal Revision Application No.152 of 2019, more particularly, observations in paragraph 30, learned trial Court has rightly granted maintenance to respondent no.1 wife and respondent no.2 children and as such according to him, no fault can be found in the impugned order and he strongly opposes relief as prayed.

4. Learned Counsel for respondent no.3 - husband would submit that husband has no source of earning or income. That husband is ready to pay Rs.5,000/-, but only for the minor child. She submitted that there is only 3 acres agriculture land and it is further jointly owned by him and his other siblings. That he has no independent source of income and even he questions the findings reached at by both learned trial Court as well as First Appellate Court.

5. After considering the above submissions, present proceedings seems to be at the instance of father-in-law of present respondent no.1. Respondent no.1 was married with respondent no.3 and they have a child out of their wedlock, whereas respondent no.4 seems to be wife of present applicant.

6. Record and papers show that by invoking Sections 12(1), 17, 18, 19, 20, 22, 23 of the PWDVA, proceedings were initiated by present respondent no.1 wife and she had also pressed for interim maintenance for herself as well as the minor and also set up claim for house rent i.e. against husband and parents-in-law. She has instituted aforesaid proceedings alleging that after 3 months of marriage, there was physical and mental cruelty and harassment and she was thereby constrained to lodge report with Sillod City Police Station for offence under Sections 498-A, 354, 354-2, 504, 506 read with Section 34 of the Indian Penal Code (IPC). She set up maintenance claim by disclosing income earned by husband, in-laws through joint family properties and at initial stage, set up interim maintenance claim for herself and minor.

7. Husband and in-laws including present revisionist appeared through the Court summons and resisted the above claim refuting all allegations and denying income, source of income and properties to be joint family properties. After appreciating the cases advanced by each of the side, learned Additional Chief Judicial Magistrate, Court No.5, Aurangabad by order dated 29-11-2022 directed interim maintenance of Rs.15,000/- per month for wife and Rs.5,000/- per

month for minor and Rs.10,000/- per month towards house rent.

8. Above order was questioned by both husband as well as father-in-laws by initiating different proceedings bearing PWDVA Appeal Nos.195 of 2022 and 196 of 2022 respectively before learned Additional Sessions Judge, Aurangabad. Said Appeals came to be dismissed with costs by order dated 04-01-2024. Said order is now taken exception to by father-in-law alone by filing instant revision.

9. The fundamental and principle ground of challenge is that revisionist is father-in-law. That he is not obliged to maintain daughter-in-law or grand children. According to him, he has self acquired properties. That there are no joint family properties nor there is any evidence to that extent. According to him, issue of availability of joint family or joint family income is not in the realm of criminal Court dealing with PWDVA cases. Hence, the challenge. He sought reliance on the decision of Hon'ble High Court of Gujarat at Ahmedabad dated 21-01-2016.

10. Learned Counsel for respondent no.1 wife has also placed on

record judgment of this Court dated 02-11-2020 in Criminal Revision Application No.152 of 2019 (*Devmani Thakkar v. State of Maharashtra*), AIR Online 2020 Bom. 2580.

11. After perusing papers and impugned orders, it is emerging that in the trial Court, respondent no.1 wife has placed on record documents nos.1 to 22 collectively marked as exh.16 enlisting the acquisitions of holdings and the same are though standing in the sole name of present revisionist, *prima facie* said documents do go to show that some acquisitions of the properties are through joint family income. Therefore, submission made before this Court that there is no foundation to form opinion that there was joint family income, has no force. Properties listed at Sr. Nos.16 to 19 are specifically said to be purchased out of joint family income. Mere submission advanced here is that applicant's son i.e. husband of respondent no.1 colluded with his own wife i.e. respondent no.1 to set up claim of maintenance. Appreciation of evidence could be done only on full-fledge trial.

At this stage, interim maintenance was prayed for before trial Court and documentary evidence was relied upon by present respondent no.1. Therefore, when she is shown to be entitled and

qualified to receive interim maintenance, no fault can be found in trial court's findings about her entitlement to receive interim maintenance for herself and for minor. Even appellate Court was not convinced that impugned order of trial Court could be faulted at.

The facts of the case relied by the applicant are distinct and thus, cannot be made applicable to the case in hand.

12. Considering the provision for interim maintenance and its object, quantum awarded by way of interim maintenance seems to be just and proper. There is no merit in the revision. Accordingly, I proceed to pass following order :

ORDER

Criminal Revision Application No.51 of 2024 is dismissed.

(ABHAY S. WAGHWASE)
JUDGE