



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL REVISION APPLICATION NO. 89 OF 2024

1. Shital w/o Anant Pind (Suryawanshi),
Age 43 years, Occu – Household,
2. Mahesh s/o Anant Pind (Suryawanshi),
Age 15 years, Under Guardianship of
His real mother
Shital w/o Anant Pind (Suryawanshi),
Both R/o. Masalga, Taluka Nilanga,
District Latur.
At present Shirur-Tajband,
Taluka Ahmedpur, District Latur.

... Applicants
[Ori. Applicants]

Versus

1. Anant s/o Shankar Pind (Suryawanshi),
Age 58 years, Occu. Labour.
2. Omprakash s/o Shankar Pind (Suryawanshi),
Age 71 years, Occu. Agri,
3. Hanmant s/o Shankar Pind (Suryawanshi),
Age 69 years Occu. Agri,
4. Ravikiran s/o Hanmant Pind (Suryawanshi),
Age 36 years, Occu. Agri.,
5. Kushalbai w/o Shankar Pind (Suryawanshi),
Age 92 years, Occu. Household,
6. Sushilabai @ Laxmibai w/o
Omprakash Pind (Suryawanshi),
Age 66 years, Occu. Household,
7. Kamalbai w/o Shankar Pind (Suryawanshi),
Age 64 years, Occu. Household,

(Relief granted against
respondent no.1 only)

All 1 to 7 are R/o. Masalga,
Taluka Nilanga, District Latur.

8. Sushilabai w/o Shripati Jadhav,
Age 67 years, Occu. Household,
R/o. Shirol Wanjarwada,
Taluka Nilanga, District Latur.

... Respondents

[Orig. Respondents 2 to 8
are formal parties]

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Mr. Shrikant B. Madde, Advocate for the Applicants.

Mr. S. B. Gastgar, Advocate for Respondent Nos. 1 to 4 and 6 to 8.

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CORAM : ABHAY S. WAGHWASE, J.

Reserved on : 29.11.2024

Pronounced on : 03.12.2024

ORDER :

1. Revision applicant-wife takes exception to the judgment and order passed by learned Additional Sessions Judge, Ahmedpur, District Latur dated 28.11.2023 in P.W.D.V. Appeal No. 03 of 2022, arising out of the judgment and order passed by learned J.M.F.C., Ahmedpur in Application under PWDV Act bearing No. 19 of 2018 dated 24.01.2022 granting maintenance.

2. Brief facts emerging on going through the papers are that, present applicant no.1 and respondent no.1 are husband and wife. Due to differences, they parted ways and later on, applicant wife instituted proceedings before learned J.M.F.C., Ahmedpur seeking maintenance and several reliefs by invoking the provisions of

Protection of Women from Domestic Violence Act, 2005 [for short, “PWDV Act”]. She also sought maintenance for herself as well as their son Mahesh (present applicant no.2). As there was neglect to maintain, she set up maintenance claim to the tune of Rs.10,000/- for each of the applicants and separate amount for rent, medical expenses and compensation. Her above application was resisted by husband (present respondent no.1). Learned trial court in Application under PWDV Act No. 19 of 2018, granted maintenance to the tune of Rs.2,500/- to each applicant, Rs.1,000/- per month towards house rent. Rs.10,000/- towards damages were also directed to be paid to the applicants.

3. Against the above order, appeal was preferred before learned Additional Sessions Judge, who pleased to partly allow the appeal and the order of maintenance is modified to the effect that quantum of maintenance is reduced from Rs.2,500/- to Rs.1,400/- each, quantum of rent is reduced from Rs.1,000/- per month to Rs.600/- per month and the amount of damages/compensation is also reduced from Rs.10,000/- to Rs.5,000/-. Aggrieved by the same, instant revision has been filed on several grounds mentioned in the revision application.

4. Learned counsel for applicants would submit that applicant no.1 was married to respondent no.1 on 23.06.2003 and out of their wedlock, they have a son i.e. applicant no.2. Because of ill-treatment, harassment and illegal demand, which was not met, she was driven out of the house. Since then, she is residing with minor. They have no independent source of income and she is unable to maintain herself as well as the minor and therefore, she instituted proceedings and sought maintenance and other amounts under various heads. Learned counsel submits that respondent husband appeared and opposed the proceedings. That, apart from agricultural income, he has joint family property and he is also doing dairy business and thereby has sufficient source to pay maintenance. He submits that learned trial court was pleased to grant Rs.2,500/- as maintenance to each of the applicants along with amount of Rs.1,000/- towards rent and cost of Rs.10,000/- by way of damages. It is pointed out that said order was taken exception to by husband by filing appeal bearing P.W.D.V. Appeal No. 03 of 2022. Learned counsel submits that without assigning proper reasons, learned appellate court reduced the quantum of maintenance and brought it down to Rs.1,400/- each. That said amount is too meager to sustain herself as well as the minor and hence, applicant wife seeks indulgence on the ground that she has to maintain herself as well as her minor.

5. Learned counsel for respondents opposed on the ground that learned trial court committed error while appreciating the evidence and more particularly the source of income. That, in trial court, present applicant wife failed to make out a case for maintenance and even failed to establish income of husband or her entitlement. Therefore, such proceedings were challenged by way of appeal and the appellate court correctly appreciated the evidence, and finding the quantum awarded by trial court to be on higher side, modified the same. According to him, there is no reason to disturb the findings of the appellate court.

6. Perused the order of learned J.M.F.C. as well as learned Additional Sessions Judge while entertaining appeal under Section 29 of the PWDV Act. It seems that both the courts have considered agricultural income and income earned from dairy while arriving to the quantum. Learned J.M.F.C., which is the court of first instance, had occasion to examine the evidence and conduct proceedings on appearance of parties. The present applicant also has a son to maintain. After hearing both sides and on going through the order passed by the first appellate court, this Court is convinced that there was no justifiable reason to scale down the quantum awarded by the

trial court in favour of applicants wife and son, more particularly in the light of expenses required for subsistence in current days. There is no convincing reason assigned by the first appellate court while reducing and modifying the quantum and it is so evident from para 11 and 12 of the impugned order. Hence, revision application deserves to be allowed by setting aside the order of the first appellate court and confirming the order passed by learned J.M.F.C., Ahmedpur. Accordingly, following order is passed :

ORDER

- I. The criminal revision application is allowed.
- II. The judgment and order dated 28.11.2023 passed by the Additional Sessions Judge, Ahmedpur, District Latur in P.W.D.V. Appeal No. 03/2022 is hereby quashed and set aside.
- III. The order dated 24.01.2022 passed by the J.F.M.C. (Court No.3), Ahmedpur in Application under PWDV Act No. 19 of 2018 stands confirmed.
- IV. The criminal revision application is accordingly disposed off.

[ABHAY S. WAGHWASE, J.]