

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION

**REVISION APPLICATION NO.188 OF 2022**

**WITH**

**INTERIM APPLICATION NO.1486 OF 2022**

**IN**

**REVISION APPLICATION NO.188 OF 2022**

Siddharth Ramesh Ahire And Ors.

...Applicant

**Versus**

Prajakta Siddharth Ahire And Anr.

...Respondents.

---

*Adv. Manish N. Jain a/w Adv. Ritu G. Gehlot & Adv. Atul Kumar Howale i/b  
Kumar Sitaram Howale for the Applicant.*

*Adv. Meghdeep M. Oak for the Respondent (Through V.C.).*

*Adv. Shilpa Gajare, APP for the Respondent-State.*

---

**Coram : Sharmila U. Deshmukh, J.**

**Date : March 28, 2024.**

**P. C. :**

1. Heard.
2. By this Petition exception is taken to the order dated 4<sup>th</sup> February, 2022 passed by the Appellate Court in Criminal D. V. Appeal No. 9 of 2021 rejecting the Appeal filed by the Applicant herein against the order of the Judicial Magistrate First Class, Satara in Criminal Mics. Application No. 228 of 2017.
3. The facts required to be expounded are that the Applicant and the Respondent No. 1 were married on 26<sup>th</sup> November, 2011. In the

proceeding before the Trial Court, apart from the Applicant No. 1, the parents and the sister of the Applicants are also added as Respondents. After the marriage, there was a matrimonial dispute by reason of which the Applicant No. 1 and the Respondent No. 1 wife started residing separately.

**4.** Subsequently, Petition was filed for restitution of conjugal rights by the Respondent No. 1-wife whereas the Applicant No. 1 filed a Petition for dissolution of the marriage. It appears that there was some settlement between the parties and on 31<sup>th</sup> January, 2015, the parties resumed cohabitation. On 30<sup>th</sup> March, 2016 the son Advik was born to the parties. During this period also there was dispute between the parties. As the allegation is that domestic violence was committed by the Applicants D.V. Application No. 228 of 2017 was filed before the Judicial Magistrate First Class Satara.

**5.** The Application came to be resisted by the Applicants. The allegations were denied and it was contended that in fact the Respondent No.1 wife has subjected the Applicants to harassment for which she has filed police complaints.

**6.** The parties went to trial. The Trial Court by order dated 2<sup>nd</sup> July, 2021, partly allowed the Application and passed residence orders under Section 19 and protection orders under Section 18. Monetary

relief by way of grant of maintenance of Rs. 10,000/- per month apart from bearing the education expenses of the child and compensation of Rs.2,00,000/- under Section 22 of the D. V. Act was granted to Respondent No. 1 wife.

**7.** Against this, Appeal under Section 29 of the D.V. Act was filed by the Applicants being Criminal D. V. Appeal No.9 of 2021. The Appellate court after considering the evidence and submissions dismissed the Appeal with a direction to pay cost of Rs. 20,000/- to the Respondent No. 1 wife.

**8.** Heard Mr. Jain, learned counsel for the Applicants and Mr. Oak, learned counsel for the Respondent.

**9.** Learned counsel for the Applicants would submit that the Application filed under Section 12 of the D.V. Act was not an Application as contemplated under the said provisions as the same was in the format of a form without any details. He would point out to the Affidavit of evidence filed by Respondent No. 1 and would submit that the evidence does not establish the case of domestic violence. He would further submit that the act of domestic violence is *sine qua non* for grant of any relief and in the absence of Respondent No. 1 establishing her case of domestic violence, no reliefs could have been granted. He would further point out that for the purpose of seeking

relief of compensation under Section 22 of the D.V. Act, a separate Application is required to be filed which has not been done in the present case. He would further submit that the findings of the Trial Court and the Appellate Court do not satisfy the ingredients of Section 22 of the D.V. Act for the purpose of grant of compensation.

**10.** *Per Contra*, learned counsel for the Respondents has pointed out to the findings of the Trial court which on appreciation of the evidence has held that the Applicants are guilty of domestic violence for which complaints were filed with the police which has been admitted by the Applicant No. 1. He would further point out that in the cross-examination, the Applicant No. 1 has admitted that the allegations as regards the harassment at the hands of the Respondent No. 1 was never complained to the police. He further points the admission that the Applicant No. 1 is not ready and willing to cohabit with the Respondent No. 1 and the admission that by reason of the dispute between the Respondent No. 1 and the mother of the Applicant No. 1 i.e. Applicant No. 2 herein at the time when the Respondent No. 1 had conceived, decision was taken by the Applicant No. 1 to reside separately. He submits that admittedly, the wife is not working and as such, she was entitled to the monetary reliefs as well as compensation. Pointing out to the Application in the format of

form, he submits that specific relief under Section 22 of the D.V. Act has been claimed.

**11.** To counter the said submission, learned counsel for the Applicants would submit that amount has not been quantified although relief under Section 22 of the D. V. Act has been sought.

**12.** Considered the submissions and perused the Record.

**13.** The submission which has been advanced is firstly that the Application which was made to the JMFC was not a proper Application as it was in the format of form. For that purpose, if we peruse the provisions of Section 12 D. V. Act, which provides for making of an Application to the Magistrate, the same provides that an aggrieved person or a Protection Officer or any other person on behalf of the aggrieved person may present an Application to the Magistrate seeking one or more reliefs under the Act. Sub-section 3 of Section 12 of the D. V. Act provides that every Application under sub-section 1 shall be in such form and contained such particulars as may be prescribed or "as nearly as possible thereto". In exercise of the powers conferred under Section 37 of the D. V. Act, Rules have been framed and Rule 6 of the D. V. Rules 2006 provides that the Application for the aggrieved person shall be in Form-II "*as nearly as possible thereto.*" Form-II has been prescribed in the D. V. Rules of

2006. Upon comparison of the form which has been submitted by Respondent No. 1 wife to the JMFC, it is clear that the same is in accordance with the Form-II which is prescribed by the Rules.

**14.** At this stage, it also needs to be noted that the stated object of the Act is to provide for more effective protection of the rights of women guaranteed under the Constitution who are victims of violence of any kind occurring within the family and for matters connected therewith and incidental thereto. Although, Section 12 of the D. V. Act provides for Application to be filed before the Magistrate, strict rules of pleading which are usually applicable to the civil proceedings are not required to be followed. It needs to be noted that the D. V. Act is a beneficial legislation and in any event, considering that the Application complied with Form-II as prescribed under the Rules of 2006, the contention is liable to be rejected.

**15.** The next submission is that the Respondent No. 1 has not established the acts of domestic violence. In support of the submissions, learned counsel would rely upon the affidavit of evidence and would point out to certain depositions in the paragraphs of the affidavit in lieu of evidence. Before perusing the same, if we take a look at Section 3 of the D. V. Act, it is clear that definition of domestic violence is an expansive definition which takes within its fold

not only physical abuse, but, also verbal and emotional abuse, and, sexual abuse as also economic abuse. More particularly, verbal and emotional abuse includes insults, ridicule, humiliation, name calling and insults etc. Considering the expansive definition of domestic violence contained in Section 3 of the D.V. Act, if the affidavit of evidence of Respondent No. 1 is perused, the Respondent No. 1 has deposed in detail as regards the verbal and emotional abuse in the form of ridicule, humiliation and insult which she has been subjected to at the hands of the Applicants. More particularly, in the cross-examination, the Applicant No. 1 has admitted that due to the fights between the Applicant No. 2 and the Respondent No. 1 wife at the time when the Respondent No. 1 was pregnant, the Appellant No. 1 took a decision to reside separately. This vital piece of evidence in fact lend credence to the evidence of the Respondent No. 1 wife that she was subjected to verbal and emotional abuse at the hands of the Applicant No. 2.

**16.** The Appellate court has considered the evidence in detail and more particularly the admissions that in respect of the acts of domestic violence, Respondent No. 1 wife had filed police complaints which has been admitted by the Applicant No. 1 and he has also admitted that there are no complaints which were filed by the

Applicants as against the Respondent No. 1 wife. The Appellate Court after appreciation of the evidence has upheld the findings of the Trial Court. Nothing has been demonstrated to indicate that there is any illegality or perversity particularly when this Court is exercising powers under Section 397 of Cr.P.C. which is extremely limited.

**17.** Now coming to the issue as regards the compensation which has been granted under Section 22 of the D. V. Act. It will be relevant to refer to Section 22 of the D. V. Act which reads as under:

**“22. Compensation orders.**—In addition to other reliefs as may be granted under this Act, the Magistrate may on an application being made by the aggrieved person, pass an order directing the respondent to pay compensation and damages for the injuries, including mental torture and emotional distress, caused by the acts of domestic violence committed by that respondent.”

**18.** Plain reading of the provisions would indicate that in addition to other relief which may be granted, the Magistrate may on an Application made by the aggrieved person, pass an order directing the Respondent to pay compensation and the damages which is required to be ascertained is for the injuries, including mental torture and emotional distress caused by acts of domestic violence. Considering that the compensation is required to be assessed in respect of mental

torture and mental distress it is but evident that there cannot be any strait jacket formula for arriving at the quantum of compensation. The Court has to arrive at the quantum of compensation by taking into consideration the totality of the circumstances and as well as the nature and extent and the gravity of the domestic violence to which the aggrieved person has been subjected. Although it is sought to be contended that there is no finding of the JMFC as regards the issue No. 6, it needs to be considered that the Trial Court has arrived at a specific finding as regards the acts of domestic violence. As such it is not necessary by answering the issue No. 6 that the whole evidence which had already been discussed be repeated while answering the issue as regards the issue of payment of compensation.

**19.** The Trial Court has held that the Respondent No. 1 wife has been deprived of a matrimonial life by the Applicant No. 1 and she has also established the acts of domestic violence on part of the Applicants and is thus entitled to compensation. As regards the assessment of the compensation unless it is shown that the discretion exercised is so arbitrary that would warrant interference of this Court in exercise of jurisdiction under Section 397 of Cr.P.C., this Court will not interfere in the said quantum. More particularly, when the Appellate Court has also upheld the quantum of the compensation

granted. The Courts have taken into consideration that the Respondent No. 1 has no means of income and despite thereof the Applicants have neglected the Respondent No. 1 and the son. The submission that there is a need for separate Application, the provisions of Section 22 of the D. V. Act do not provide that the same has to be by way of a separate Application. All that the provision mandates is that the Magistrate may on an Application grant compensation. Learned counsel for the Respondent No. 1 has rightly pointed the Application which seeks relief under Section 22 of the D. V. Act. Once such relief is sought, it is for the Court to arrive at the quantum of compensation it has done in the present case.

**20.** Having regard to the discussion above, there is no merit in the Revision Application. Revision Application stands dismissed.

**21.** In view of dismissal of Revision Application, Interim Application does not survive for consideration and the same is disposed of.

**[Sharmila U. Deshmukh, J.]**