



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRI. REVISION APPLICATION NO.179 OF 2024
WITH
INTERIM APPLICATION (ST) NO. 5962 OF 2024

- | | | |
|----|-----------------------------|------------------|
| 1. | Jimesh Ranawat |] |
| | Age : 42, Occ. : Service, |] |
| 2. | Mrs. Saroj Mahendra Ranawat |] |
| | Age : 62 Occ. : Housewife, |] |
| | Both residing At : |] |
| | 901 B Wing Royal Residency, |] |
| | Industrial Estate, Lalbaug, |] |
| | Mumbai 400 012 |] .. Applicants. |

Versus

- | | | |
|----|---------------------------------------|-------------------|
| 1. | Deepika Jimesh Ranawat, |] |
| | Age : 39, Occ: Service, |] |
| 2. | Havisha Jimesh Ranawat, |] |
| | Age : 11, |] |
| | Both residing at: |] |
| | Flat No.B-703, 7 th Floor, |] |
| | Dosti Belleza, G.D.Ambedkar Marg, |] |
| | Patel Wadi, Parel Village, |] |
| | Mumbai 400 093 |] .. Respondents. |

WITH
CRI. WRIT PETITION (ST) NO.7102 OF 2024

- | | |
|--|------------------|
| Jimesh Ranawat |] |
| Age : 42, Occ. : Service, |] |
| residing at : 901 B Wing, |] |
| Royal Residency, Industrial Estate, Lalbaug, |] |
| Mumbai 400 012 |] .. Petitioner. |

Versus

- | | | |
|----|---------------------------------------|-------------------|
| 1. | Deepika Jimesh Ranawat, |] |
| | Age : 39, Occ: Service, |] |
| 2. | Havisha Jimesh Ranawat, |] |
| | Age : 11, |] |
| | Both residing at: |] |
| | Flat No.B-703, 7 th Floor, |] |
| | Dosti Belleza, G.D.Ambedkar Marg, |] |
| | Patel Wadi, Parel Village, |] |
| | Mumbai 400 093 |] |
| 3. | The State of Maharashtra |] .. Respondents. |

*Ms.Manjula Rao a/w Mr.Rohan Deshmukh, for Petitioner in WPST/7102/2024, and for Applicant in REVN/179/2024 and IA/ST/5962/2024.
Mr.Sandeep Kekane a/w Mr. Pawan Mali, for Respondent Nos.1 and 2.
Ms.Shilpa Gajare, APP for the Respondent-State in Writ Petition.*

Coram : Sharmila U. Deshmukh, J.
Reserved On : April 16, 2024.
Pronounced On : April 30, 2024.

JUDGMENT :

- 1. Rule.** Rule made returnable forthwith and taken up for final hearing with consent of the parties.
- Criminal Revision Application No 179 of 2024 is filed by the original Respondents challenging the judgment dated 17th September, 2022 passed by the Sessions Court, Dindoshi in Criminal Appeal No.241 of 2019 dismissing the Appeal and confirming the judgment dated 1st August, 2019 passed in DV/57/2014 by Metropolitan Magistrate, Andheri, Mumbai.

3. Writ Petition (St.) No.7102 of 2024 has been preferred by the petitioner-husband challenging the orders dated 29th January, 2024 and 15th March, 2024 passed in Misc. Application No.786 of 2019 by which the warrant of attachment was issued by the Metropolitan Magistrate under Section 125 of the Cr.P.C. to enforce the payment of maintenance by attachment of the bank account of the Petitioner and directing the transfer of the arrears of maintenance to the account of the Respondent No.1-wife.

4. Common arguments were advanced by both the parties. The decision in the Criminal Revision Application would decide the fate of Writ Petition (St.) No.7102 of 2024, as the same arises out of the orders passed for enforcement of the maintenance granted to the Respondent-wife. The revision application and the petition were taken up for hearing together and the same is being disposed of by this common judgment.

5. DV/57/2024 was filed by the Applicant wife under Section 12 of the Protection of Women from Domestic Violence Act, 2005 (for short, "DV Act") against her husband, father-in-law (who expired during the pendency of the proceedings), mother-in-law and her sister in law. The DV application has been dismissed as against Respondent No.4, the sister-in-law. The parties are referred to by their original status in the DV Proceedings before the Trial Court.

FACTS:

6. The Applicant and Respondent No 1 were married on 12th March, 2009 at Andheri Sports Complex, Andheri and after the marriage they resided together in the shared household situated at

Lalbaug. The Respondent No.2 herein was born on 9th May, 2011 and is presently aged about 11 years. On 28th April, 2012, the Applicant left the matrimonial house and is residing with her parents till date. On 25th April, 2013, the Respondent No.1 approached the Social Security Branch seeking intervention in the matrimonial dispute. On 13th July, 2013, the Applicant lodged the First Information Report (FIR) under Sections 498-A, 406, 354, 509 read with 34 of the Indian Penal Code, 1860 against the Respondent No.1 and his parents and the proceedings are pending before the Metropolitan Magistrate Court, Sewree. On 22nd April, 2014, the Applicant lodged another FIR under Sections 419, 420, 465, 467, 468, 471 read with 34 of the Indian Penal Code, 1860, against the Respondent No.1, his father, his sister and one Ms. Hetal Mehta, which is pending before the Metropolitan Magistrate Court, Esplanade. The proceedings initiated under Section 498-A of the IPC has been stayed by this Court. During the pendency of the proceedings the parties were sent for mediation however, the mediation failed.

7. Petition No.A-1541 of 2014 is filed by the Respondent No.1 seeking dissolution of marriage and the same is pending before the Family Court at Bandra, Mumbai. The Applicant filed petition for restitution of conjugal rights on 2nd January, 2016 being Petition No.A-311 of 2016, which is pending before the Family Court at Bandra.

8. Interim maintenance was granted to the child by the Metropolitan Magistrate which was challenged before the Sessions Court and the maintenance was enhanced from ₹7,000/- to ₹12,000/- and the maintenance of Applicant was rejected. During the pendency of the DV Proceedings, the Applicant again filed an application seeking maintenance and rent amount on the ground that she has

resigned from her job. On 1st August, 2019, the Metropolitan Magistrate passed an order partly allowing the application as against which both parties preferred appeals and the Sessions Court by order dated 1st August, 2019 directed payment of ₹20,000/- to the Applicant towards rent, ₹20,000/- towards the maintenance of the daughter from the date of the order and ₹25,000/- to the Applicant for her maintenance from August, 2017. An application for stay was filed by the Respondents on 18th September, 2019 before the Appellate Court, Dindoshi. Vide order dated 26th December, 2019, stay was granted subject to depositing 50% amount of maintenance. The Applicant and the Respondent No.1 have filed their respective affidavits of disclosure of assets and liabilities. By common judgment and order dated 17th September, 2022, Criminal Appeal No.241 of 2019 filed by the Applicant was partly allowed and the Respondent's appeal came to be dismissed.

Pleadings in DV/57/2014:

9. Briefly summarizing the case in the DV application, it is pleaded that at the time of the marriage, unreasonable demands were raised by the Respondents concerning the venue and gifts were demanded. After the marriage, the *Stridhan* of the Applicant was taken away by her mother-in-law i.e. Respondent No.3 and kept in her custody. Within 15 days of the marriage, the Applicant was forced to sign some insurance papers for insurance of the Applicant and the Respondent No.1 and was forced to pay the premium for the insurance policy and on refusal she was harassed and the premium was paid directly from her bank account against her will. The father-in-law credited a sum of ₹45,600/- into the Applicant's bank account at Union Bank of India showing the same as a loan and later forced the Applicant to issue a

cheque of ₹1,00,000/- to clear the sham loan and to pay the insurance premium. The sum of ₹1,00,000/- was transferred from the Applicant's salary account at Axis Bank to the Union Bank account. Two premiums of ₹45,541/- each were paid from the Applicant's Union Bank in the year 2009 and 2010 and ₹45,600/- was credited to the father in law's company. The father-in-law made further demands that the entire salary of the Applicant be transferred to the Union Bank Account which was opened by him and under his control by forcibly taking her signatures/blank cheques and making her withdraw cash to give him from July 2009 to October 2011. The cheques are still in possession of the Respondents. On 19th March, 2014, the Respondent No.1 terminated the joint policy without her consent and sent a cheque of ₹1,00,000/- alongwith letter dated 14th March, 2014.

10. It is pleaded that the Applicant alongwith Respondent No.1 and one friend were going for an outing and in order to avoid intervention by father in law and mother in law, the Respondent No.1 advised the Applicant to wear a Saree on top of her knee length dress. The father in law noticed the same and demanded that the Applicant take off the Saree right then and there and to reveal what she was wearing inside. The Applicant felt embarrassed and humiliated and removed the Saree inside her bed-room and then came out in the dress which she was going to wear. The Respondent No.1 did not object to his father's behavior and did not support the Applicant. The father in law has frequently misbehaved with the Applicant by inappropriately touching her. In October, 2009, at a party, the father in law forced the Applicant to eat one sweet after another making the Applicant uncomfortable. In September, 2010, when the Applicant was pregnant and she refused to handover the cheques to transfer money

to bank account of father in law , the Respondent No.1 forced her to sign cheques and assaulted her and threw her on the floor several times which caused stomach cramps and bleeding. The father in law used to smoke cigarettes in presence of the Applicant during her pregnancy and even in presence of the child causing discomfort.

11. In October, 2011, the father in law demanded ₹10,00,000/- from Applicant's father and as the demand was not met, the Applicant was driven out of the matrimonial house and was again taken back on 27th February, 2012. On 28th April, 2012 the Applicant was again driven out of the house alongwith the child and was not even allowed to carry her belongings. The DV application was filed claiming reliefs under Sections 18, 19 and 20 of DV Act.

Reply of Respondents:

12. The contentions in the reply filed by the Respondent No.1 and the Respondent Nos.2 and 3 were more or less common. The incidents pleaded in the application were denied. The Applicant is not entitled to monetary relief as she is working as Merchandiser with Kama Sachter Jewellers, Seepz Andheri and having a salary of ₹60,000/- p.m. The *Stridhan* of the Applicant was kept by her either in her cupboard in their bed-room or in the locker opened in their joint names and the locker was operated by Applicant. The Respondent No.1 has handed over the Applicant's jewellery in the presence of the police which was left behind in her cupboard. The insurance policy was taken jointly for the benefit of the Applicant and the Respondent No.1 and two premiums were paid from Applicant's account to enable her to claim income tax benefit. The amount for the first premium of ₹45,600/- was transferred from the father in law's bank account to the

Applicant's bank account and the second premium was paid by the Applicant from her own salary. The Applicant also repaid the amount of ₹45,600/- transferred by the father in law. The Applicant by communication dated 3rd October, 2012 terminated the policy and cheque of ₹1,00,000/- received after the closure of policy was sent to her which she refused to accept. The Applicant was taken regularly by the Respondent No.1 for her medical check-ups during her pregnancy and there was no problem at any time in the pregnancy. The reason for the Applicant to leave the house on 28th April, 2012 was on the petty issue of his mother asking the maid, who was employed for looking after the child, to assist her in the kitchen when the Applicant and the Respondent No.1 alongwith the baby had gone to Rajasthan. The Applicant stayed in the house for less than a month from 30th September, 2011 to 22nd October, 2011 and did not attend the wedding of Respondent No.1's sister.

Evidence:

13. The Petitioner examined herself and her father, her younger sister, her cousin brother in support of her contentions. The Respondent No.1 examined himself, his brother's wife, his cousin brother, his father's friend in support of the contentions.

Judgment of the Trial Court dated 1st August, 2019:

14. The Trial Court on appreciation of the evidence held that there is no case of domestic violence made out *qua* the Respondent No.4. The proceedings against father in law abated due to his death. As far as the Respondent Nos.1 and 3 are concerned, the Trial Court held that the FIR lodged by the Applicant supports her case. The reason

put forth by the Respondent No.1 for the Applicant leaving the matrimonial house was disbelieved. The trial Court held that there is no material on record to show that the Respondent No.1 made any sincere attempts to resume cohabitation with the Applicant. The Trial Court held that acts committed by the Respondent Nos.1 and 3 fall within the definition of "*domestic violence*". The protection orders were declined as from 2012 parties were residing separately. The Trial Court found no reason to pass restraining orders *qua* the jewellery, operation of bank locker and the shared household.

15. On the issue of alternate accommodation/rent, the trial Court held that the Applicant is staying with her parents in rented flat since the year 2013 and the case of the Applicant was that the present rent agreement from January, 2017 to January, 2019 was in the name of the Applicant and the rent is of ₹51,650/-. The Trial Court considered that there is no explanation as to why the last agreement was executed in her sole name only and there is no reliable evidence to show that the Applicant was paying any rent to her father. The Trial Court held that the Applicant is not entitled to rent of alternate accommodation for the earlier period, however, from the date of the order, the trial Court directed rent to be paid of ₹20,000/- p.m.

16. As regards monthly maintenance, the Trial Court considered the evidence of the Applicant that earlier she was working and earning ₹31,000/- p.m. and in August, 2017 she has lost her job. The Respondent No.1 has deposed that he is working on the post of Assistant Vice President with Edelweiss and his gross salary is ₹35,00,000/- p.m. and in the present year, he has received a bonus of ₹10,00,000/-. The Trial Court directed the Respondent No.1 to pay ₹20,000/- p.m. towards the maintenance to the daughter from the

date of order and ₹25,000/- p.m. for her maintenance from the month in which she lost her job i.e. August, 2017.

Judgment of the Appellate Court dated 17th September, 2022:

17. The Appellate Court considered the evidence on record and held that as regards the incidents of domestic violence deposed by the Applicant the version of the Applicant has gone unchallenged and held that the mental and physical harassment was caused to the Applicant which constitutes domestic violence. The Appellate Court also considered the admission of the Respondent No.1 in his cross-examination that at the final stage of reconciliation before the Social Security Branch, he was not ready for reconciliation. The Appellate Court upheld the judgment of the Trial Court as regards decline of protection orders as well as restraining orders qua the *Stridhan*, operation of bank locker as well as alienation of the shared household.

18. On the issue of the rent, the Appellate Court noted that though the Applicant is living with the parents she has to contribute towards the rent. The Appellate Court noted the admission of the Respondent No.1 in his cross-examination that he pays an amount of ₹45,000/- p.m. to his mother as rent which house is 3 bed room hall and kitchen and that the wife should live as per the standard of living of her husband and granted monthly rent of ₹30,000/-.

19. As regards maintenance, considering the admitted income of the Respondent No.1, an amount of ₹30,000/- was directed to be paid towards maintenance of the Applicant and her daughter. The rent of ₹30,000/- was directed to be paid from 1st August, 2019, the

maintenance of ₹30,000/- each to the Applicant and her daughter from the date of the application and ₹5,000/- was directed towards the cost of the appeal.

Submissions:

20. Ms. Rao, learned counsel appearing for the Revision-Applicants points out that the allegations made in the DV complaint are against the father in law mainly. She submits that the only incident as far as the Respondent No.1 is concerned, is the assault during the pregnancy however no medical records have been produced on record to substantiate the said allegations. She submits that although an allegation was made that the Respondent No.3 has taken her *Stridhan*, some of the articles were recovered by the Police from her cupboard and despite the order of the Court, the Applicant has not come forward to open the joint bank locker.

21. She would further submit that it was the Respondent No.1 who had approached the Social Security Branch for the purpose of mediation and as such, the inference drawn that he was not willing to cohabit is not correct. She submits that before the Social Security Branch, the Applicant wanted to return to her matrimonial house. Pointing out to the emails sent by the Applicant to the Respondent No.1 during the period from 12th June, 2013 to 29th June, 2013, she submits that the same would show her willingness to resume cohabitation and thus, the allegations made are completely false. Pointing out to the admissions in the cross-examination, she would submit that the cross examination of the Applicant shows that the relationship between the Applicant and the Respondent No.1 was smooth which falsifies the allegations of domestic violence. She

would further submit that the fact that the petition for restitution of conjugal rights is filed would show the willingness of the Applicant to go back to the Respondent No.1. Pointing out to the additional affidavit of evidence, she would submit that the Applicant herself has stated that she had strong hopes that the Respondent No.1 would reconcile with her and take her back to the matrimonial house.

22. She would submit that she has no objection to payment of maintenance for the daughter, however, the Applicant has failed to prove that she has no source of income. She would further submit that in support of her case for resignation a simple letter has been produced by the Applicant without any signature of the employer and no witness has been examined to prove acceptance of resignation. Pointing out to the affidavit of disclosure of assets and liabilities of the Applicant, she would submit that the affidavit shows three addresses and as such there is no question of grant of any rent. She would further point out the admission of the Applicant's father that in the year 2013, the landlord had given him possession of 1 BHK only and the landlord had kept his articles in the other two rooms and accordingly the rent was charged. She would point out that the rent was collected for 3 BHK flat, however, only two rooms were occupied.

23. She submits that evidence shows that all the Applicant's ornaments were kept by her in her bank locker. Pointing out to the cross-examination, she would submit that there is admission of the Applicant that no amount was transferred from her account to the account of her husband or her father-in-law and that the Respondent No.1 had also paid two premiums of the joint LIC policy.

24. *Per contra*, Mr.Kekane, learned counsel appearing for the

Respondent submits that the starting point of litigation was the communication with the Social Security Branch and the Respondent No.1 had approached the Social Security Branch for the purpose of seeking protection and not mediation by pointing out the contents of the communication dated 25th April, 2013. He would further submit that the Respondent No.1 has admitted that his gross salary is ₹35,00,000/- and also that he is paying a rent of ₹45,000/- to his mother and for that relevant year, he has received a bonus to ₹10,00,000/-. He submits that for a 3 BHK flat a sum of ₹45,000/- is paid as rent and therefore the rent amount of ₹30,000/- has been rightly granted as the Applicant is entitled to the same standard of living as that of the Respondent No.1.

25. He would further submit that as regards the salary of the Applicant, the Respondent No.1 has admitted that on the basis of his own assessment he has mentioned her salary and there was no document to show her salary. He would further point out the admission in the cross-examination that the letter dated 26th June, 2013 was given by him to Union bank of India and that there was no order of any court to freeze the bank locker. He would further point out the Respondent No.1's admission in the cross-examination that before the Social Security Branch, his father had abused the applicant. He would further submit that the cheque of ₹1,00,000/- was tried to be given on 14th March, 2024 after the Applicant had already lodged the FIR. He would further submit that the Respondent No.1 has admitted that during the panchanama the police has recovered signed blank cheques of the Applicant from the cupboard of the Applicant. He would further submit that an additional affidavit filed by the Applicant pleads that in August, 2017 she has lost her job. He submits

that there are concurrent findings of the Trial Court and the Appellate Court based on the evidence and there is no illegality demonstrated. He would submit that the affidavit which is not part of the compilation of documents filed by the Respondent No.3 mother-in-law shows rent received from her son.

26. As regards the submissions on Writ Petition (St.) No.7102 of 2024, he submits that an Interim Application was pending for the same relief filed in Revision Application and a separate Writ petition for the said relief is not maintainable. He submits that there was no stay which was granted and therefore the distress warrant was rightly issued. He submits that there is an alternate remedy of Appeal.

27. In rejoinder, learned counsel appearing for the Applicants would submit that the Applicant is a practicing lawyer as of today. She would point out from the orders of this Court that in the November, 2023 the mediation was pending and during pendency of the mediation, the order of recovery of amount was passed and implemented.

REASONS AND ANALYSIS:

28. It is well settled that the scope of interference in revision jurisdiction under Section 397 of Cr.P.C is extremely narrow and the revisional Court while considering the legality and propriety, does not dwell upon the facts and evidence of the case and the material is considered only to satisfy itself about the legality and propriety of the findings. It is also well settled that in exercise of the revisional jurisdiction, the Court usually refrains from substituting its own conclusion on elaborate consideration of the evidence.

29. Keeping in mind the counters of the revisional jurisdiction the

material on record has been assessed by this Court only to satisfy itself as to the correctness and the legality of the findings of the Trial Court and the Appellate Court.

30. The act of domestic violence is a *sine qua non* before any relief under the DV Act can be granted. The allegations in the DV application would reveal that substantial allegations are levelled against the father in law. One incident which deserves special mention is that during the Applicant's stay in the matrimonial house at the time of going out, the father in law noticed the Saree wrapped round a dress and demanded that she take off the Saree right then and there to reveal what she was wearing inside. As regards the mother in law, the allegation is of taking the *Stridhan* and as regards the Respondent No.1, the allegation is that during the pregnancy, the Respondent No.1 forced her to sign the cheques and assaulted her and she was thrown on her stomach on several times which caused stomach cramps and bleeding. On 27th October, 2011, she was driven out of the house and taken back on 27th February, 2012 and again was thrown out on 28th April, 2012.

31. The sum and substance of the allegations can be summarized as under:

- (i) Keeping the *Stridhan* of the Applicant by the mother in law in her own custody,
- (ii) Interfering with the financial affairs of the Applicant by the Respondent No.1 and father in law,
- (iii) Assault by the Respondent No.1 during the Applicant's pregnancy.

(iv) Inappropriate behavior by the father in law which was not opposed by the Respondent Nos.1 and 2.

32. Now if the evidence is perused, in the Applicant's cross examination, there is no cross examination as regards the Applicant's deposition qua the various incidents of misbehaviour by the father in law. The Applicant's version as regards the incidents of domestic violence has therefore gone unchallenged. In the cross-examination, the emphasis was to show that there was a smooth relationship between the parties by showing that even after the birth of the child, Applicant was visiting the matrimonial house. As regards the amount of ₹45,600/- which was credited to her account, the Applicant has admitted that no amount was transferred from her account to the account of her father-in-law.

33. In the cross-examination, the Respondent No.1 has admitted that after a quarrel between the Applicant and the Respondent No.1, the Respondent No.2 had called the parents of the Applicant and asked them to take the Applicant to their house. He has also admitted that during the panchanama the police has recovered signed blank cheques of the Applicant from the cupboard of the Applicant.

34. The Appellate Court has noted that there are specific instances deposed by the Applicant in respect of the father in law's misbehaviour and during all these acts the Respondent No.1 was present and he remained silent and silence of the Respondent No.1 without any constructive steps to support his wife caused mental and physical injury and harassment to the Applicant constituting domestic violence.

35. Nothing has been demonstrated from the evidence to demolish the case of domestic violence pleaded by the Applicant. Perusal of the Applicant's cross examination would indicate that the Appellate Court has rightly held that there is no cross-examination on the various incidents *qua* the father in law and thus the Applicant was subjected to domestic violence. The stated object of the DV Act is to provide for more effective protection of the rights of the women guaranteed under the Constitution, who are victims of violence of any crime occurring within the family and the definition of the "domestic violence" occurring under Section 3 of the DV Act takes within its fold, any act, omission or commission or conduct which harms or injures or endanger the health, safety, life, limb or well being and also includes not only physical and sexual abuse but also verbal, emotional and economic abuse.

36. Perusal of the definition of the "domestic violence" would indicate that the same is an expansive definition which is not restricted only to acts of domestic violence but takes within its fold even omission or conduct which conduct or omission results in causing domestic violence to the aggrieved person. I am afraid, I am unable to subscribe to the reading of the application in the manner which has been read by the learned counsel appearing for the Applicants that all allegations are *qua* the father in law. It is no doubt true that the incidents which are narrated is as regards the abuse or inappropriate misbehavior or the forcible interference in the financial affairs of the Applicant by the father-in-law. However, the Respondent No.1 by his passive participation in these acts of humiliation and abuse by his father would necessary entail causing mental and physical harassment to the Applicant falling within the criteria of "***omission or conduct***" as

stated in the the definition of “domestic violence” under Section 3 of DV Act and is thus rightly held to have committed act of domestic violence.

37. What is most disturbing is the incident where the father-in-law had asked the Applicant to remove her Saree for finding out the apparel which she was wearing underneath the Saree. As there is absolutely no cross-examination on this incident, the version of the Applicant has gone unchallenged. By reason of marriage, a woman does not lose the right to live her life as per own choices and no person has a right to dictate the manner in which the woman should lead her life. The humiliation and embarrassment which would be caused to a married woman by such demand by her father in law in presence of the family members as well as her friend is, in my opinion, worst form of emotional abuse striking at the mental well being and dignity of the aggrieved person. In such a situation, it is naturally expected of the husband to take steps to protect his wife from such humiliation. By remaining indifferent to such an act by his own father, the Respondent No.1 is equally guilty of said act. This act of remaining a passive-spectator to the humiliation being suffered by his own wife would be nothing less than an emotional abuse of the worst form resulting in mental agony to the Applicant constituting domestic violence at the hands of the Respondent No.1. I have no hesitation in holding that this solitary incident is more than enough to come to a finding of domestic violence being committed by the Respondent No.1 and the father in law.

38. Apart from the incident discussed, the Respondent No.1 has admitted that before the order of the Court, he has not paid any amount to the Applicant for the maintenance of the daughter. Section

3 of the DV Act also covers a case of economic abuse which would include deprivation of all or any economic financial resources to which the aggrieved person is entitled and requires out of necessity including household necessity for the aggrieved person and her children. By not making any provision for the maintenance of their child despite earning such a huge income, a clear case of economic abuse is made out.

39. The evidence on the record would also indicate that no efforts were made by the Respondent No.1 to resume cohabitation. After the Applicant left the matrimonial house on 28th April, 2013, there is no evidence brought on record to show that any attempts were made by the Respondent No.1 to bring back the Applicant to the matrimonial house. The Appellate Court has rightly held that the reason given by the Respondent No.1 that the Applicant left the matrimonial house on her own volition on 20th April, 2012 on the issue of the maid is not convincing. It cannot be digested that on petty issue of the maid, the Applicant would leave the matrimonial house and never come back. The communication with the Social Security Branch was for seeking protection and not for the purpose of mediation or resolving of the dispute. It has been specifically recorded that the Respondent No.1 does not want to reconcile with the Applicant. It is also admitted by the Respondent No.1 in his cross examination that before the Social Security Branch Officer the father in law had abused the Applicant. These acts on part of the Respondent No.1 are sufficient to cause mental agony to the Applicant especially when it is shown from the various emails, that she was ready and willing to resume cohabitation despite the harassment that she was subjected to. The willingness of the Applicant cannot be construed to her detriment to come to a

finding that false allegations are made in the DV proceedings.

40. As regards the admission in the cross-examination, that there was no amount transferred from the account of the Applicant, even if, there was no actual transfer of the amount, the admitted position is that there was forcible interference in the financial affairs of the Applicant against her wish and the same is sufficient to cause mental agony .

41. It is not necessary to go into the issue of *Stridhan* and the aspect as to whether the *Stridhan* was kept in the bank locker and whether the same was refused to open by the Applicant as the Appellate Court has not granted any reliefs *qua* the recovery of *Stridhan* or from operation of the bank locker and the said findings have not been challenged by the Applicant.

42. Now coming to the issue of maintenance, the admitted position is that the Respondent No.1 is a Chartered Accountant and earning yearly salary of ₹35 lakhs and has admitted that he has also received bonus of ₹10 lakhs that year.

43. The Applicant has deposed that she has lost her job and could not secure another job. In the cross-examination apart from suggestion nothing has been brought on record to show that the Applicant is having sufficient source of income even if it is accepted that she is a practicing Advocate. As she has stated that in the year 2017 she has lost her job even if she has started practising as lawyer in the year 2017, it is well known that there is hardly sufficient income earned by lawyers in the initial stage of their practice.

44. Even if it is accepted that the Applicant is earning same income

as held by the Apex Court in case of ***Rajnish Vs. Neha*** reported in ***(2021) 2 SCC 324***, even if wife is earning, it cannot operate as a bar from being awarded maintenance by the husband.

45. Respondent No.1 is admittedly drawing a gross salary of about ₹35 lakhs per year and it has not been demonstrated that the Applicant's earning is in the same income bracket. Apart from his mother there are no dependents on the Respondent No.1. On the other hand, the Applicant has to look after her maintenance as well as the growing needs of the child. Considering the above factors, the amount of ₹60,000/- which has been directed to pay towards the maintenance of the Applicant and the child cannot be said to be excessive. The Apex Court has held that the maintenance amount awarded must be reasonable and realistic. The sufficiency of the quantum has to be adjudged so that the wife is able to maintain herself with reasonable comfort.

46. As regards the direction to pay rent, Section 19(f) of DV Act empowers the Magistrate to pass residence orders directing the Respondent to secure the same level of alternate accommodation as enjoyed by the aggrieved person in the shared household or to pay rent for the same. The Respondent No.1 has admitted that he is paying a rent of ₹45,000/- to his mother for 3 BHK flat in which the only Respondent No.1 and his mother are residing. As against this, the Applicant is residing with her brother and her parents in a rented flat. Even if the Applicant chooses to stay with her parents, she is entitled to rent for alternate accommodation. Whether only 2 rooms are used out of 3 BHK flat is totally irrelevant. The Appellate Court has considered the evidence on record and has rightly directed the rent of ₹30,000/- to be paid towards the Applicant by considering that the

Respondent No.1 is paying a sum of ₹45,000/- to his own mother. The order of the Appellate Court is in compliance with the power vested under Section 19(f) of the DV Act.

47. In light of the discussion above, the Appellate Court has rightly appreciated the evidence on record and there is no illegality demonstrated from the judgment of the Appellate Court. The Revision Application being devoid of merits stands dismissed.

48. As regards the Writ Petition, the same was filed against the order of the Metropolitan Magistrate for the purpose of enforcing the order of the maintenance which has been granted in favour of the complainant by the Appellant Court. It is not demonstrated to this Court that there was any stay granted to the impugned order. The provisions of the DV Act provide for enforcement of the orders passed in DV proceedings in the manner as laid down under Section 125 of the Cr.P.C. Section 125(3) of the Cr.P.C. provides that for breach of the order a warrant can be issued for levying the amount due in the manner provided for levying fine. Section 421 of the Cr.P.C. provides for the issuance of warrant for levying of fine by attachment and sale of any immovable property belonging to the offender. The Trial Court noted that the Appellate Court has granted maintenance as well as the rental amount and for execution of the distress warrant amount of ₹79,18,383.93 was frozen in the bank account of the Respondent No.1 and despite thereof the Respondent No.1 has not appeared before the Court to give his say or objection. It is in that context that the Metropolitan Magistrate has directed the transfer of the amount from the bank account of Respondent No.1 to the bank of the Applicant. The submission of learned counsel for the Revision Applicants that the same was during the pendency of the mediation

proceedings does not render the order of the Magistrate unsustainable in the absence of any stay being granted. That apart by way of present Revision Application, the challenge to the impugned order also fails as such, there is no infirmity in the order passed by the Metropolitan Magistrate, which is impugned in the writ petition. Consequently, the Writ petition stands dismissed.

[Sharmila U. Deshmukh, J.]