



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL REVISION APPLICATION NO.99 OF 2022

APPLICANTS : 1 **Gajanan Shankarrao Mate,**
Age :- 57 years, Occ:- Nil
2 **Smt. Shakuntala Shankarrao Mate,**
Age :- 78 years, Occ :- Nil
Both R/o. C/o. Kishor Jawarkar, Balaji
Plot, Amravati, Tq. and Dist. Amravati
..**VERSUS..**

RESPONDENT : **Sau. Vandana Gajanan Mate,**
Age:- 52 years, Occ:- Household, R/o.
C/o Shankarrao Ghatol, Mohan Colony,
Camp, Amravati.

Mr P. A. Kadu, Advocate for Appellants.
Mr G. S. Gour, Advocate for Respondent.

CORAM : **SANDIPKUMAR C. MORE, J.**
RESERVED ON : **11th NOVEMBER, 2024.**
PRONOUNCED ON : **12th NOVEMBER, 2024**

JUDGMENT

1. Heard.

2. The present criminal revision application is directed
against the judgment and order dated 11.01.2022 passed by the
learned Additional Sessions Judge-5, Amravati (hereinafter

referred to as “the learned Appellate Court”), by the present applicant No.1 - husband. Under the impugned judgment and order, the learned Appellate Court has reversed the judgment and order dated 09.10.2017 passed by the learned Judicial Magistrate First Class Court No.8, Amravati i.e. the learned Trial Court and has allowed the original application filed by the present respondent - wife in PWDVA No.245 of 2016. The learned Trial Court had in fact dismissed the aforesaid application of respondent - wife.

3. The background facts of the case are as under :

The applicant No.1 and respondent are the husband and wife and their marriage was solemnized on 23.04.1995. However, after four months of their marriage, the applicant No.1 – husband started harassing and abusing the respondent - wife. He used to beat her under the influence of alcohol and his mother i.e. the applicant No.2 – Shakuntala used to instigate him. Therefore, the respondent – wife was constrained to file an application bearing PWDVA No.245 of 2016 under the

provisions of Protection of Women from Domestic Violence Act, 2005 (hereinafter referred to as “the PWDV Act”) for various reliefs provided under Sections 17, 18, 19, 20, 21 and 22 of the PWDV Act. The learned Trial Court initially dismissed the said application on the basis of oral and documentary evidence on record. However, the learned Appellate Court in the appeal provided under Section 29 of the PWDV Act, reversed the dismissal order of the learned Trial Court and ultimately allowed the application by granting reliefs in favour of the respondent – wife under the aforesaid Sections. Hence, this criminal revision application.

4. Mr. Kadu, learned counsel appearing for the applicants submits that the learned Trial Court had in fact considered the oral and documentary evidence on record adduced by the rival parties in proper perspective and had come to the conclusion that the respondent - wife could not adduce the satisfactory evidence on record to prove her allegation about the domestic violence. He pointed out that even the learned Appellate Court had also concurred with the

observation of the learned Trial Court that the respondent - wife could not establish any ill-treatment by the applicants. He further submitted that there was no prayer under Section 19 of the PWDV Act by the respondent – wife in her application, but still the learned Appellate Court granted the same. He further submitted that even the learned Family Court after the impugned judgment is passed, has granted divorce to the applicant No.1 – husband by observing that the respondent - wife had treated him with cruelty. In support of his submissions, he relied on the following citations :

(i) *Shri Vijayanand Dattaram Naik and Ors. vs. Vishranti Vijayanand Naik and Anr., 2019 ALL MR (Cri) 3519,*

(ii) *State of Maharashtra vs. Prabhakar Somaji Ambhore, 2019 ALL MR (Cri) 3520.*

5. On the contrary, Mr Gour, learned counsel for the respondent - wife strongly opposed the submissions made on

behalf of the applicants. According to him, the PWDV Act is a beneficial legislation and even if the incidents of physical violence are not proved, then the reliefs under the PWDV Act can be granted even considering the economic abuse, which has included in the exhaustive definition of domestic violation under Section 3 of the PWDV Act. He pointed out that the respondent - wife had specifically pleaded in her original application about the economic abuse and there was no evidence by the applicant No.1 – husband that he regularly provided financial assistance to her. He further pointed out that the learned Trial Court, while dismissing the application of respondent - wife, did not touch aspect of economic abuse. For that purpose, he relied on the following judgment :

(a) *Sapna vs. Pravin Ishwarbhai Patel and Ors., 2019 SCC OnLine Bom 760.*

6. Heard rival submissions. Also perused the documents on record alongwith the impugned judgments and the judgments cited by the rival parties.

7. Admittedly, the applicant No.1 – husband and the respondent – wife resided with each other till 2016 and after about 20 years, the respondent - wife filed an application for grant of relief under the provisions of PWDV Act. Further, it is significant to note that the learned Trial Court on the basis of oral and documentary evidence has come to the conclusion that the respondent - wife could not establish any of the incidents on the basis of which, she claimed domestic violence at the hands of the applicants. Further, on going through the judgment of the learned Appellate Court, it appears that the learned Appellate Court, to some extent, has concurred with the said observation of the learned Trial Court. The learned Appellate Court has specifically observed in its judgment that there was nothing from the side of the respondent - wife to show that she had been subjected to ill-treatment at the hands of the applicants and that the applicant No.1 – husband was having illicit relations with her sister-in-law as alleged. However, it appears that the learned Appellate Court has reversed the decision of the learned Trial Court mainly by

observing that the applicants could not establish the fact that the respondent - wife had left their house on her own will. The learned Appellate Court has also observed that the applicants also failed to prove that the respondent – wife was able to maintain herself and her daughter. Further, it is also observed that the applicant No.1 himself had admitted under the joint pursis that he sold his house at Vijay Nagar, Amravati for the consideration of Rs.30 lakhs and did not provide anything from the said sale proceed to his wife.

8. It is significant to note that it was alleged by the respondent – wife at the time of filing application under the provisions of PWDV Act, that she was driven out of the house after being subjected to ill-treatment. It was also alleged that the applicant No.1 - husband was having illicit relations with her sister-in-law. However, both the learned Courts below have concurrently observed that the evidence adduced by the respondent - wife certainly fell short for establishing her allegations. However, it is not in dispute that the applicant No.1 – husband and the respondent – wife were residing

together for almost 21 years and then, she was compelled to leave the house of the husband on account of alleged ill-treatment. It is extremely important to note that the respondent - wife has pleaded in her application about this aspect. However, the applicants had come with a case that she on her own accord had in fact left their house.

9. The learned counsel for the applicants vehemently argued that there was no cross on behalf of the respondent - wife about applicants' contention that she left their house on her own accord. However, it is important to note that the applicants could not adduce any supporting evidence to show that the respondent - wife had in fact left their house on her own will. Admittedly, no such cross-examination is there, but the respondent – wife in her evidence had already stated that she was subjected to ill-treatment, and therefore, there was no option for her but to leave the house of applicants. There is also no cross of respondent - wife from the side of applicants in respect of this statement in her evidence. Under such

circumstance, it was for the applicants to adduce evidence in support of their contention that the respondent - wife left their house on her own accord.

10. Further, it is also important to note that no aspect of economic abuse has been discussed by the learned Trial Court. The learned Appellate Court though did not use the specific word “economic abuse” in its judgment, but it is observed that even, if it was presumed that the respondent – wife left the house of applicants on her own accord, then it was necessary for applicant No.1 - husband to adduce evidence that he had tried his level best to bring her back. Further, it is specifically observed by the learned Appellate Court that the applicants did not mention in their say as well as evidence that they had made an arrangement for providing financial assistance to the respondent - wife as well as her daughter despite having legal obligation to that effect. Further, it is extremely important to note that the applicant No.1 himself has admitted under the pursis that he sold his another house at Vijay Nagar, Amravati for Rs.30 lakhs under the registered sale-deed. However,

despite selling the said house, nothing has been produced on record by him that out of those funds, he had provided certain financial assistance to the respondent - wife and her daughter.

11. Learned counsel for the respondent - wife heavily relied on the judgment of this Court in the case of Sapna vs. Pravin (supra), wherein the concept of economic abuse is discussed, which is a part of exhaustive definition of domestic violence under Section 3 of the PWDV Act. This Court, in the aforesaid judgment, has made following observations :

"16. The applicant had lived together with respondent No.1 as family members in a joint family. Therefore, there is a domestic relationship between the applicant and the respondents. Domestic Violence is defined under Section 3 of the DV Act, as under :-

"3. Definition of domestic violence - For the purposes of this Act, any act, omission or commission or conduct of the respondent shall constitute domestic violence in case it-

(a) ...

(b) ...

(c) ...

(d) ...

Explanation I. - For the purposes of this section, -

(i) "physical abuse"

- (ii) *"sexual abuse"*
- (iii) *"verbal and emotional abuse"*
- (iv) *"economic abuse" includes -*
 - (a) *deprivation of all or any economic or financial resources to which the aggrieved person is entitled under any law or custom whether payable under an order of a Court or otherwise or which the aggrieved person requires out of necessity including, but not limited to, household necessities for the aggrieved person and her children, if any, stridhan, property, jointly or separately owned by the aggrieved person, payment of rental related to the shared household and maintenance.*
 - (b) *...*
 - (c) *..."*

17. *As per clause (iv)(a), deprivation of all or any economic or financial resources to which the aggrieved person is entitled under any law or custom ... is an economic abuse.*

18. *In the present case, the applicant was having only source of income from Patel Mangal Karyalaya during the lifetime of her husband. After the death of her husband, respondent No.1 took over the possession of said Patel Mangal Karyalaya and deprived the applicant from financial resources from Patel Mangal Karyalaya. Therefore, it amounts to economic abuse."*

12. Here in this case, though it was an obligatory on the part of the applicant No.1 - husband to provide financial resources to the respondent - wife even after selling his own house, he did not do the same. Thereafter, even in the absence

of reliable evidence in respect of incidents of domestic violence as alleged by the respondent - wife, the present case can still be covered under the definition of domestic violence in respect of economic abuse. It is significant to note that the object of PWDV Act is to protect women from domestic violence suffered by them within the four walls of house, which is not easily noticeable to others. Moreover, the facts of this case are clearly evident of fact that though, there were certain incidences of providing financial assistance to the respondent - wife during the period of their cohabitation, but after they started residing separately, there is nothing on record to show that the applicant No.1 - husband had taken care of livelihood of respondent - wife or her daughter. Moreover, there is nothing on record to show that he had even made an attempts to bring back the respondent - wife. Therefore, even if, there were findings by both the Courts below that no incidences of domestic violence were established by the wife still she proved economic abuse at the hands of applicants, which is a part of the comprehensive definition of domestic violence under Section 3 of the PWDV

Act. Therefore, the judgments relied upon by the learned counsel for the appellants are not helpful in the peculiar facts of this case.

13. Considering all these aspects, no interference is required in the impugned judgment and accordingly the revision application stands **dismissed** alongwith pending application(s), if any.

(SANDIPKUMAR C. MORE, J.)