



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH : NAGPUR

CRIMINAL REVISION APPLICATION NO.124 OF 2024

- 1) Sachin Sahebrao Kamdi
Aged about 42 years,
Occ. Private job (B.Com)
- 2) Sau. Suvarna Sahebrao Kamdi,
aged about 68 years, Occ. Household
Both R/o. Krishna Nagar Near T.V.
Tower, Seminary Hills, Nagpur, Tah. &
Distt. Nagpur

.... Applicant(s)

// VERSUS //

- 1) Sau. Yogita Sachin Kamdi,
Aged about 38 year, Occ. Teaching,
(M.A, B.ED) R/o. C/o. in House of
Ramesh Jagannath Manmode,
Manikwada, Tah. Ashti, District
Wardha.

.... Non-applicant(s)

.....
Ms Kirti Satpute and Ms Prachi Joshi, Advocates for the applicants/s
None for the non-applicant.
.....

CORAM : SANDIPKUMAR C. MORE, J.

DATE OF RESERVING THE JUDGMENT : 27.11.2024
DATE OF PRONOUNCEMENT OF THE JUDGMENT : 29.11.2024

JUDGMENT :

1. The applicants, who are the original respondent Nos.1 and 3,
have taken an exception to the judgment and order passed by the

Additional Sessions Judge-2, Wardha (herein after referred to as “the Appellate Court”), whereby dismissal of the PWDV Application No.23 of 2018 filed by the present non-applicant/wife dated 28.06.2023, is set aside.

2. The background facts are as under:

The non-applicant/wife filed the original PWDV Application No.23 of 2018 under the provisions of the Protection of Women from Domestic Violence Act, 2005 (herein after referred to as ‘the PWDV Act’) for various reliefs as mentioned therein. The present applicants contested the application by resisting the same. Both the parties led evidence, but the learned Judicial Magistrate First Class, Ashti, District : Wardha i.e. the learned trial Court dismissed the original application of the non-applicant/wife vide judgment dated 28.06.2023. However, since the learned Appellate Court reversed the said judgment and granted reliefs under the provisions of the PWDV Act in favour of the non-applicant/wife, the present Revision Application is filed.

3. Heard rival submissions and also perused the impugned

judgment along with the judgment passed by the learned trial Court. The non-applicant/wife despite service, remained absent.

4. According to the learned counsel for the applicants, the learned trial Court had infact rightly appreciated the evidence on record and in view of the vital admissions given by the non-applicant/wife and had come to the conclusion that there was no case of the domestic violence made out by her, as alleged. He pointed out that the non-applicant/wife resided only for one year with the applicant No.1-husband and infact she was picking up quarrels regularly and even attempted to kill her husband i.e. the applicant No.1. He further submitted that even though the incidents of domestic violence were not proved, but still the learned Appellate Court under the impugned judgment held that the applicants subjected non-applicant/wife to domestic violence.

5. It is significant to note that the non-applicant/wife had come with the allegations that the applicant No.1-husband and his relatives were making frequent complainants against her on flimsy grounds. She claimed that her husband though assured, but did not

take her to Pune to reside there and she was compelled to reside at Nagpur only. She further claimed that the family members of her husband used to insult her on the ground that they were not given due respect in the marriage. However, on going through the judgment of the learned trial Court, it appears that the learned trial Court has refused to grant reliefs in favour of the non-applicant/wife on the admissions given by her in the cross-examination. The learned trial Court has observed that she admitted that her husband had taken her to Pune as well as Mahabaleshwar and made an arrangement for sleeping separately in his house at Nagpur. Further, the learned trial Court has held that after marriage, she had gone to college at Nagpur and also appeared for said examination. Thus, the learned trial Court has come to the conclusion that the applicants herein had given the non-applicant/wife all the liberty. Therefore, the learned trial Court inferred that there could not be any case of domestic violence on this background.

6. However, on going through the judgment of the learned

Appellate Court, the aforesaid admissions given by the non-applicant/wife are already considered, but the evidence given by the non-applicant/wife in her examination-in-chief is also discussed. It is specifically held that though at certain points of time, there were happy moments in the life of the non-applicant/wife when she was residing with the applicants, but that did not mean that there was no incidence of domestic violence at all. It is to be noted here that the applicant No.1 had also led evidence by making the allegations against the non-applicant/wife, as to how she was of quarrelsome nature and insulting him and his family members, but there is no supporting evidence to the allegations and therefore, the evidence led by both the parties appears to be statements on oath against each other.

7. On the contrary, the conduct of the applicant-husband is also to be seen, as when the non-applicant/wife started living with her parents separately, there was no attempt at all from the husband for bringing her back. No specific incident to that effect has been brought on record by him. On the contrary, the applicant No.1-

husband never tried for restitution of conjugal rights, but he directly filed the divorce petition against the non-applicant/wife. The learned Appellate Court considering this, has therefore, rightly observed that the relationship between the parties had gone to such extent.

8. There are some admissions on the part of the non-applicant/wife about the efforts made by the applicant No.1-husband, facilitating her in some kind, but that does not mean that there could not be any incident of domestic violence as averred by the non-applicant/wife. Further, it appears that the learned Appellate Court has relied upon certain judgments, wherein a definition of 'domestic violence' is considered. Even under the provisions of the PWDV Act, the definition of 'domestic violence' is so exhaustive and it definitely covers the incident narrated by the non-applicant/wife before the learned trial Court. Therefore, the conclusion of learned trial Court on the basis of admissions given by non-applicant/wife, is definitely perverse and the same appears to have been corrected by the learned Appellate Court by

discussing the evidence in proper manner. Even otherwise also the scope of Revision Application is very limited, wherein an interference is required only when the finding of the learned Courts-below is absolutely perverse and not in consonance with the evidence on record.

9. In the instant case, the learned Appellate Court has properly discussed the evidence on record and rightly relied upon the observations on this Court in the judgments cited before it. Therefore, considering the exhaustive definition of 'domestic violence' in PWDV Act, there cannot be any perversity in the judgment of the learned Appellate Court. Thus, no interference is required at the hands of this Court in the impugned judgment and accordingly, the present Revision Application stands **dismissed** along with pending Criminal Application (APPR) No.165 of 2024.

SANDIPKUMAR C. MORE, J