



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL REVISION APPLICATION NO. 297 OF 2022

- . Shaikh Mujib S/o. Shaikh Siddiqui
Age: 40 years, Occu.: Business,
R/o. : Raj Galli, Manwat,
Tq.Manwat, Dist.Parbhani. ..Applicant
- Versus
- 1] Asma Begum W/o. Shaikh Mujib
Age : 33 years, Occu.: Household,
R/o. At present Raj Mohalla, Manwat
Tq.Manwat, Dist.Parbhani.
 - 2] Shaikh Siddiqui S/o Shaikh Pasha
Age: 60 years, Occu.: Business.
 - 3] Shaikh Khatunbi W/o Shaikh Siddiqui
Age: 55 years, Occu.: Household.
 - 4] Shaikh Rafik S/o Shaikh Siddiqui
Age: 38 years, Occu.: Business.
 - 5] Shaikh Shafik S/o Shaikh Siddiqui
Age: 32 years, Occu.: Business .. (abated)
 - 6] Shaikh Atik S/o Shaikh Siddiqui
Age: 34 years, Occ. : Business.
 - 7] Shaikh Wajid S/o Shaikh Siddiqui
Age: 32 years, Occu.: Business.
 - 8] Shaikh Ajib S/o Shaikh Siddiqui
Age : 34 years, Occu.: Business.
 - 9] Nafisa W/o Shaikh Shafik
Age: 35 years, Occ.: Household.
 - 10] Naushad W/o Shaikh Atik
Age: 32 years, Occ.: Household.

11] Parvinbi W/o Shaikh Wajid
Age: 50 years, Occu.: Household.

12] Asiya W/o Shaikh Rafique
Age: 35 years, Occu.: Household,

Resp. Nos. 2 to 12 :

R/o. Raj Galli, Manwat,

Tq. Manwat, Dist.Parbhani.

..Respondents

(Resp.Nos.2 to 12 : Formal Parties)

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Advocate for Applicant : Mr. Pravin N. Kalani

Advocate for Respondent no.1 : Mr. Avinash A. Khande

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CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 24 NOVEMBER, 2025

PRONOUNCED ON : 27 NOVEMBER, 2025

JUDGMENT :

1. Revisionist assails judgment and order dated 29-06-2020 passed by learned Sessions Judge, Parbhani in PWDV Appeal No.22 of 2018 arising out Judgment and order dated 27-02-2018 passed by learned Judicial Magistrate First Class, Manwat in PWDVA No.10 of 2014.

2. In nutshell facts are that, present respondent no.1 Asma filed proceedings against her husband and in-laws by invoking Section 12 of the Protection of Women from Domestic Violence Act, 2005 (hereinafter referred to as "D.V. Act"), for relief under Sections 17,

18, 19 and 20 and 22 of the said Act. In said proceedings, it was alleged that marriage between herself and revisionist husband was of 09-04-2008 as per Muslim rituals. They also had children out of their wedlock. After 3 years of marriage, it is alleged that, there was mal-treatment on trivial grounds coupled with demand of Rs.1,00,000/- for purchase of a Truck. In the year 2013, it is alleged that, she was beaten and driven out of house. Thereafter, there was neglect to maintain her and therefore, she set up claim of Rs.15,000/- alongwith compensation and costs.

The above proceedings were contested by revisionist husband by filing say at exh.11 denying allegations of ill treatment, demand and there is denial of source of income for separate maintenance. Counter case was set up that wife was not interested in cohabiting with husband and was rather keen in residing with her parents. Oral and documentary Evidence in above proceedings was appreciated and learned trial court was pleased to record finding that wife is already getting maintenance under Section 125 of the Code of Criminal Procedure (Cr.PC.) and therefore, applicant is not entitled for relief of compensation/costs and above PWDVA No.10 of 2014 by order dated 27-02-2018 was rejected.

The above order was questioned by respondent no.1 herein by

approaching Sessions Judge, Parbhani vide PWDV Appeal No.22 of 2018 and the same came to be partly allowed vide Judgment and order dated 29-06-2020 directing revisionist husband to pay Rs.5,000/- per month to wife from the date of application.

Feeling aggrieved by the same, instant revision has been filed.

3. In brief, submissions put forth by learned counsel for revisionist are that, though marriage between parties was not denied, rest of the contentions raised by wife in PWDVA No.10 of 2014 were seriously contested and refuted. That, learned trial court had rightly considered that respondent no.1 wife was not entitled for monetary relief as she was already beneficiary of maintenance under Section 125 of the Cr.P.C. Learned counsel further emphasized that, moreover, revisionist has given divorce to respondent no.1 wife on 16-6-2016. Wife has also given *Khulanama*. Therefore, in view of such supervening circumstances, he would submit that no relation exists or subsists between the parties so as to seek or grant of any monetary relief. He pointed out that said *Khulanama*, which is in Urdu is also placed on record. Learned counsel questions the observations and findings of the First Appellate Court and rather supports findings recorded by learned Judicial Magistrate First Class,

Manwat and ultimately urges to allow the revision by setting aside impugned Judgment and order passed by learned Sessions Judge, Parbhani dated 29-06-2020.

4. The above submissions are countered by learned counsel for respondent no.1 wife, who also took this court through the proceedings before the Judicial Magistrate First Class, Manwat and the evidence lead therein. He pointed out that there was total non-application of mind and therefore, appeal was preferred wherein learned First Appellate Court meticulously re-appreciated the evidence as well as law. According to him, in the first place, here wife has not demonstrated or substantiated that there was divorce as alleged. That, there is no distinct evidence in that direction and moreover according to him, for the sake of argument, if such case of husband regarding divorce is considered, in fact learned counsel submitted that law is fairly settled that even divorced wife is liable to be maintained by husband even as per Muslim Law. Learned counsel seeks reliance on judgment of this court in the case *Ali Abbas Daruwala v. Shehnaz Daruwala* [2018 (6) Mh. L.J., 596] as well as judgment of this Court in Criminal Revision Application No.131 of 2022 decided on 09-06-2023 [MANU/MH/2036/2023].

5. After hearing submissions advanced by both the sides, the only point for consideration is whether respondent no.1 wife, who is governed by Muslim law, in the light of alleged *Khulanama*, is entitled for maintenance.

6. Here, learned counsel invited attention of this court to alleged *Khulanama* at exh.18, which is apparently in Urdu and its translated version is also supplied with. It is apparently on a plain paper. Respondent no.1 wife has denied and refuted that there is divorce and *Khulanama* being drawn. Second issue is raised that wife is already beneficiary of maintenance under Section 125 of the Cr.P.C. and therefore, she is not entitled for monetary benefits.

7. Law is fairly settled that divorced wife is indeed entitled for maintenance when she has no sufficient means of her own and when there is neglect to maintain her. The judgment of this Court relied and referred above, in above proceedings, is squarely applicable. As regards to second point that wife being already beneficiary of maintenance is not entitled for monetary reliefs under the D.V.Act, also has no substance and law is fairly settled to that extent, more particularly, in the case of *Rajnish v. Neha and Others (2021) 2 SCC*

324. Therefore, here, respondent no.1 having succeeded in demonstrating that she is victim of domestic violence and further being neglected, is indeed entitled for maintenance. Moreover, as pointed out that application under PWDVA was filed in 2014 whereas alleged *Khulanama* is of 2016 and therefore, it being subsequent, and marriage being in subsistence during above period, she is entitled for relief as prayed. For both above reasons, there being no merits in the revision, it deserves to be rejected. Hence, following order :

ORDER

Criminal Revision Application No.297 of 2022 stands rejected.

(ABHAY S. WAGHWASE)
JUDGE