



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL REVISION APPLICATION NO. 65 OF 2024
WITH
CRIMINAL APPLICATION NO. 2142 OF 2024
WITH
CRIMINAL APPLICATION NO. 2143 OF 2024

1. Sagar Subhash Thorat,
Age : 36 years, Occu. : Service,
R/o. At present residing of Indira Nagar,
Nashik.
2. Subhash Rambhau Thorat,
Age : 77 years, Occu. : Retired,
R/o. Super D 17/1, B.T.P.S. Colony,
Deepnagar, Bhusawal,
District : Jalgaon.
3. Vimal Subhash Thorat,
Age : 75 years Occu. : Household,
R/o. As Above.
4. Rekha Arun Jadhav,
Age : 47 years, Occu. : Service,
R/o. Shivaji Nagar, Wadi Bhokar Road,
Behind Paras Mangal Karyalay,
Dhule.
5. Rajeshree Baliram Marathe,
Age : 45 years, Occu. : Household,
R/o. Bhairav Nagar, Beside Mayur Colony,
Near Maharashtra Flour Mill, Jalgaon.

Versus

1. Malati Sagar Thorat,
Age : 34 years, Occu. : Household,
R/o. Jivheshwar Temple,
Near Garage, Shrikrishnapura,
Amalaner, District : Jalgaon.

... Applicants
(Orig. Respondents)

2. Mihir Sagar Thorat,
Age : 8 years, Occu. : Education,
Through his guardian mother
i.e. respondent no.1,
Malati Sagar Thorat.

... Respondents.

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Mr. S. S. Bora, Advocate for Applicants.

Mr. R. G. Joshi, Advocate for Respondent Nos.1 and 2.

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CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 24 NOVEMBER 2025

PRONOUNCED ON : 26 NOVEMBER 2025

JUDGMENT :

1. Revisionist herein takes an exception to the judgment and order dated 01.02.2024 passed by learned Additional Sessions Judge, Amalner in PWDVA Appeal No.10 of 2023 arising out of judgment and order dated 31.07.2023 passed by learned Civil Judge Junior Division, Amalner in PWDVA No.7 of 2020 instituted by present respondents by invoking sections 12, 18, 19, 20 and 22 of Protection of Women from Domestic Violence Act, 2005.

2. In nutshell, present respondent wife on behalf of herself as well as her son instituted proceedings under above provisions of Domestic Violence Act, on the premise that, she was married to respondent (present revisionist no.1) on 24.08.2014. Few days after the marriage, there was maltreatment to her coupled with taunting by

husband, saying that, he could have got better spouse than her. That, previously domestic helper was engaged by husband and his family for household work, but they were deliberately removed her and she was made to do the entire household work and treated like a made servant. On instigation of respondent nos.2 and 3 as well as respondent nos.4 and 5, who intermittently visited, there was both physical and mental harassment. That, she was not cared during her pregnancy and rather neglected. That, husband did not want to bear child and even in-laws supported him. She has raised allegations of demand of share in the agriculture land, and in lieu of it, to bring Rs.2,00,000/-. On 22.02.2019, she was abused and beaten by all for demanding her ornaments back. That, she was beaten by husband and even taken to the hospital and admitted on 23.09.2019. When she informed her brother and sister and they came and questioned, they too were abused and driven away. That, she was forcibly dropped at S.T. stand and not taken back. She and her son being neglected, she instituted above proceedings and sought directions as well as monetary relief by way of compensation and costs.

3. The above proceedings were contested by present revisionist refuting all allegations and denying neglect to pay maintenance.

The learned J.M.F.C., Amalner by judgment and order dated 31.07.2023 rejected the claim of wife, but partly allowed with respect to son.

4. The said judgment and order was taken exception to by respondent wife for herself as well as her son by invoking provision under section 29 of Domestic Violence Act i.e. by filing PWDVA Appeal No. 10 of 2023, which too was contested and resisted by husband and in-laws by filing say at Exh.13.

The appellate court i.e. learned Additional Sessions Judge by judgment and order dated 01.02.2024 allowed the appeal directing present revisionist husband to pay Rs.30,000/- per month to applicant wife and Rs.10,000/- per month to son.

Dissatisfied by the same, husband and in-laws have filed instant revision application.

5. Learned counsel for revision applicants would submit that, wife had instituted false proceedings with merely ill intention to harass husband as she was keen in residing separately. He would submit that, wife would leave the company of husband regularly to go to her parents.

That, wife herself was of a quarrelsome nature. That, she instituted false proceedings before learned trial court alleging cruelty, demand and harassment without specifying the instances or events and levelling general and omnibus allegations. That, learned trial court carefully examined her evidence and the answers given by her in cross and rightly held that she had not made out the case for relief and thereby rejected her claim. That, in spite of so, learned first appellate court overturned the above findings and based on assumptions, presumptions and surmises, without appreciating the purport of the evidence, interfered by allowing the appeal. He would submit that as regards to son is concerned, he is paying his educational fees. According to him, wife is highly educated and she can easily find job for herself and maintained herself. That, even when wife was not entitled to receive monetary relief, first appellate court has granted the same.

6. Learned counsel would further submit that, respondent wife was expected to prove domestic violence and primary burden was on her to prove the same, but she had failed and had rather raised vague allegations. Learned trial court had rightly disbelieved and discarded her evidence. That, there was no sufficient cause or reason to set aside the same. That, observations and findings of learned trial court are primarily based on assumptions. He took this court through the observations of

learned first appellate court in paragraph nos. 49 and 50 and according to him, such observations have no sound foundation. Hence, he seeks indulgence by allowing the revision.

7. Learned counsel for respondent wife would support the judgment of first appellate court by submitting that, case was made out to demonstrate that, wife was victim of domestic violence. That, she had quoted several incidences. That, learned trial court had failed to consider and appreciate her case, and therefore, she had preferred appeal and only on getting satisfied that there was erroneous approach by learned trial court, learned appellate court has granted relief. However, according to learned counsel, the only error committed by learned first appellate court is that maintenance is awarded from the date of the judgment and not from the date of application and hence she seeks modification to that extent.

8. This being revision, it is to be only seen whether there is patent perversity or illegality on the part of learned courts below while passing the impugned order. It is fairly settled legal position that, the object of this provision is to set right a patent defect or an error of jurisdiction of law. Revisional jurisdiction is to be invoked only where decisions impugned are grossly erroneous, there is non compliance with the provisions of law, the findings recorded are based on no evidence and

material evidence has not been taken into account or judicial discretion has been exercised perversely. It is further settled that, scope of revisional jurisdiction of a higher court is very limited one and it cannot be exercised routinely. It is expected to be borne in mind that revisional jurisdiction should not be exercised so as to cause injustice. Thus, in short this jurisdiction can be exercise to examine correctness, legality or propriety of an order passed by inferior court.

8. With above limited scope, case in hand is approached and dealt. Marriage relations and birth of respondent no.2 is undisputed. In short, case of wife is that, initially there was taunting to her by her husband and subsequently by removing domestic servant, she was made to work as house-made. Allegations are that, husband used to say that he could have got better spouse than her. She has levelled allegations against parents-in-law as well sisters-in-law, who intermittently visited their house. Then, she has alleged that husband was not interested in child, in spite of she conceiving. She was beaten for demanding her ornaments back and at the instigation of others, her husband beating her and drive her out of the house. Husband also taking her to hospital for taking treatment. Similarly, she has in her evidence narrated the episodes of 15.08.2016, 22.02.2019, 23.09.2019 and finally she left at Amalner bus stand on 01.10.2019.

9. To above extent, her testimony has not been disturbed or rendered doubtful. Therefore, with above quality of material, it is improper to allege that wife levelled false, baseless or vague allegations. Instances are quoted by giving dates. In cases of such nature, i.e. while proving cruelty or violence, generally oral statements on oath are taken aid of while courts examining and appreciating the evidence. When there is series of events or acts, there is no reason to draw inference about non availability of material or about omnibus allegations being levelled. In cases of domestic violence or cruelty, hardly there is direct evidence, and therefore, courts are required to deal with facts and circumstances of the case and on the basis of nature of allegations levelled.

10. Under such circumstances, it is improper to submit that learned court below has drawn inference on the basis of assumptions and presumptions. Allegations of such nature cannot be substantiated by documentary evidence. Sometimes, in view of peculiar relations, party is not in a position to place evidence of physical violence, but that does not mean that there is no substance in the accusations. Here, there is some material in such directions.

11. Admittedly, parties are residing separately. Wife is residing with a minor at her parents place. She has no employment, and

therefore, mere assertions that she is highly qualified and is capable of earning, would not absolve husband from his liability. Here, revisionist husband is shown to be well placed. He earns around Rs.1,50,000/-. Wife admittedly has no distinct means to maintain herself as well as provide education and maintenance to the minor. In capacity of Dy. Executing Engineer revisionist husband is said to be earning of Rs.1,50,000/-. With such income, he has definitely means and sources to meet requirements of his wife as well as son. Learned first appellate court has awarded Rs.30,000/- per month to wife and Rs.10,000/- per month to the son, which is at present, cannot be exorbitant and excess.

12. As pointed out by learned counsel for respondents, learned first appellate court has directed payment of Rs.30,000/- per month to wife and Rs.10,000/- per month to son, from the date of judgment of learned trial court, which ought to have been in fact from the date of application. Consequently, there is no merits in the appeal and judgment and order of trial is kept intact except date of applicability of the maintenance. Hence, the following order is passed :

ORDER

- (i) The Criminal Revision Application is dismissed.
- (ii) Clause no.1(i) of the operative part of judgment and order dated 01.02.2025 passed in PWDVA Appeal No.10 of 2023,

is hereby modified to the following :-

“The original respondent no.1 i.e. husband is directed to pay Rs.30,000/- to the original applicant no.1 wife and Rs.10,000/- to original applicant no.2 son, per month, from the date of application before the learned trial court.”

- (iii) Rest of the impugned judgment and order is hereby maintained.
- (iv) In view of dismissal of revision application, pending Civil Applications Nos. 2142 of 2024 and 2143 of 2024 are disposed off.

(ABHAY S. WAGHWASE, J.)