



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

901 CRIMINAL WRIT PETITION NO. 334 OF 2025

Mayur S/o. Madhukar Birari,
Age-39 years, Occu-Private,
R/o. Adarsha Nagar, Vaijapur,
Tq. Vaijapur, Dist. Aurangabad

...PETITIONER
[Orig. Resp. No.1]

VERSUS

1. Shyamal Mayur Birari,
Age-36 years, Occu-Business,
R/o. Tilak Nagara, Sillod,
Tq. Sillod, Dist. Aurangabad
2. Garvi Mayur Birari, . ..Resp. NO. 1 and 2 are
Age-Minor, U/G of respondent No.1 Orig. Applicants.
3. Madhukar S/o. Dashrath Birari,
Age-66 years, Occu- Business,
R/o. Adarsha Nagar, Vaijapur,
Tq. Vaijapur, Dist. Aurangabad
4. Madhubala W/o. Madhukar Birari,
Age-61 years, Occu-Household,
R/o. Adarsha Nagar, Vaijapur,
Dist. Vaijapur, Dist. Aurangabad

Mr. P. P. Dawalkar, Advocate for the petitioner
Mr. V. V. Panpatil, Advocate for the respondent Nos. 1 and 2

CORAM : ABHAY J. MANTRI, J.

DATE : 12th NOVEMBER, 2025

ORAL JUDGMENT:

1. Heard. **Rule.** The rule is made returnable forthwith, and
the petition is heard finally with the consent of the learned advocates
for the parties.

2. I have gone through the impugned judgment and orders as well as the record.

3. By this petition, the petitioner is challenging the judgment and order dated 23-12-2024 passed by the learned Additional Sessions Judge, Aurangabad, whereby the learned Additional Sessions Judge dismissed the appeal and confirmed the order dated 06-05-2024 passed by the learned Judicial Magistrate, First Class, Sillod [hereinafter referred to as '*the Magistrate*'] in Cri. M. A. No. 174/2020, thereby maintenance of Rs . 10,000/- and Rs . 4,000/- per month was granted to respondent Nos. 1 and 2, respectively.

4. The learned advocate for the petitioner vehemently contended that both the learned courts below have erred in holding that the petitioner has sufficient means of income and therefore, is liable to pay maintenance as stated above. In fact, the petitioner has no sufficient means of income, as he is working as a labourer in his father's shop. Alternatively, he argued that no case of domestic violence has been made out by the respondents. However, both the learned courts below have not considered the same and have erred in granting maintenance; therefore, he urged that the impugned orders be set aside.

5. On the other hand, the learned advocate for the respondent Nos. 1 & 2 vehemently submitted that the orders passed by both the learned courts below are just and proper and no interference is required. He further submitted that the petitioner is the owner of the shop and accordingly drew my attention to an extract from the Municipal Council, Vaijapur, tax register, which shows that the petitioner is the owner of the said shop. He further submitted that the petitioner possessed the Mahindra (SUV) Car, and he has also filed the income tax return wherein his income was shown as Rs . 14,82,424/-; therefore, he canvassed that passing of the order of the learned Magistrate is just and proper. Hence, he urged the dismissal of this criminal writ petition.

6. It is pertinent to note that the petitioner does not dispute his relationship with respondent Nos. 1 and 2 and the facts that they are residing separately and he is not providing maintenance to them. The said act itself indicates that he has committed domestic violence as contemplated under Section *3(d)(iv) of the Domestic Violence Act*, i.e. which amounts to economic abuse. Therefore, I do not find substance in his contention that no domestic violence has been proved by the respondents.

7. The next question raised by the petitioner is that the learned Trial Court has erred in considering the income of the

petitioner. However, on perusal of the learned Magistrate's findings in para No. 14, it appears that the respondents have produced the *Income Tax Return* submitted by the petitioner to the Income Tax Authority *for the year 2021-2022, wherein his income is shown as Rs. 14,82,424/-*. Similarly, though the petitioner has claimed that he is working as a labourer at his father's jewellery shop, I do not find substance in his submission, in view of the entries in the tax register. Apart from this, even assuming he is working in his father's shop, he does not dispute that he is a gold artisan, which itself indicates that, as a skilled worker, he can earn enough to satisfy the respondents' needs. Therefore, I do not find substance in his contention. The learned Magistrate, as well as the learned Additional Sessions Judge, have rightly considered those facts and passed the impugned orders. Therefore, I do not find any substance in his contention in that regard.

8. It is pertinent to note that provisions under the Domestic Violence Act are a social welfare provision, which must be subjected to an extensive beneficial concern, and this understanding has been extended to monetary reliefs. Similarly, it must be borne in mind that the right to monetary reliefs under the Domestic Violence Act is not a benefit received by the wife and children but rather a legal and moral duty owed by the husband/father to maintain his wife and children.

Undisputedly, the wife and children do not reside with the husband, and the husband does not pay them anything for their maintenance. This itself is sufficient to grant them monetary relief.

9. *Moreover*, judicial note can be taken that there have been rises in essential commodities. Therefore, the maintenance amount granted to the respondents in D. V. Proceedings appears to be too meagre to satisfy their daily needs and thus, the maintenance what has been awarded by the learned trial court is not sufficient to live the life by the respondents as per living stands of the petitioner and therefore, also I do not find substance in his contention in that regard.

10. Having considered the above discussion, it appears that the impugned judgment and order passed by the learned Magistrate, as well as confirmed by the learned Additional Sessions Judge, are just and proper.

11. *However*, the learned advocate for the petitioner failed to point out that both orders are manifestly perverse or illegal. There is nothing perceptible that shows that orders are a sanctuary of errors. In fact, the orders passed by the learned Trial court and the Appellate court are based on the proper appreciation of the evidence. On the contrary, it appears that the impugned judgment and orders

passed by both the learned courts below are just and proper and no interference is required in the writ jurisdiction.

12. Consequently, the criminal writ petition being devoid of merit stands dismissed. No order as to costs. The Rule is discharge.

[ABHAY J. MANTRI, J.]

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