



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL REVISION APPLICATION NO. 282 OF 2023
WITH
CRIMINAL APPLICATION NO.1129 OF 2024

Sau. Seema W/o. Vijay Sonawane,
Age : 38 years, Occu. : Household,
R/o. Jalgaon Sapkale, Tq. Bhokardan,
Dist. Jalna.

... Applicant

Versus

1. Vijay S/o. Santukrao Sonawane,
Age : 37 years, Occu. : Service (Teacher),
Dnyaneshwar Vidya Mandir,
Thakare Nagar, N-2 CIDCO, Aurangabad
2. Santukrao S/o. Paraji Sonawane,
Age : 58 years, Occu. : Agril. and Pensioner,
R/o. Manik Nagar (Bhavan),
Tq. Sillod, Dist. Aurangabad.
3. Sindhubai W/o. Santukrao Sonawane,
Age : 54 years, Occu. : Household,
R/o. As above.
4. Rajendra Santukrao Sonawane,
Age : 32 years, Occu. : Service,
R/o. As above.
5. Dattatray Paraji Sonawane,
Age : 47 years, Occu. : Agril.,
R/o. Jainpur Kothara,
Tq. Bhokardan, Dist. Jalna.
6. Rukhmanbai W/o. Dattatray Sonawane,
Age : 44 years, Occu. : Household,
R/o. As Above.

... Respondents.

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Mr. Tushar C. Shinde, Advocate for Applicant.
Mr. B. P. Pande, Advocate for Respondents.
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CORAM : ABHAY S. WAGHWASE, J.
RESERVED ON : 5th MARCH, 2025
PRONOUNCED ON : 13th MARCH, 2025

ORDER :

1. Revisionist a wife of respondent No.1 herein, is hereby questioning order passed by learned Additional Sessions Judge-5, Jalna dated 11.07.2023 in PWDVA Appeal No. 03 of 2021 dismissing the appeal, questioning the legality, validity of judgment and order dated 07.03.2015 passed passed by learned J.M.F.C. Bhokardan in Criminal M.A. No. 195 of 2010.

FACTS IN BRIEF

2. Present revisionist instituted Criminal M.A. No. 195 of 2010 seeking maintenance to the tune of Rs.10,000/- per month under section 12 of Domestic Violence Act 2005 and also set up prayers for compensation to the tune of Rs.5,00,000/- along with other reliefs of protection and rent etc.

3. Above proceedings were contested by present respondents vide say Exh.36 denying contention and assertions of in toto. Learned J.M.F.C. Bhokardan appreciated the oral and documentary evidence and by judgment and order dated 07.03.2015 partly allowed the application granting maintenance to

the tune of Rs.3,000/- from the date of application and also awarded Rs.10,000/- by way of compensation and also granted cost of Rs.3,000/-.

4. Getting dissatisfied by the above order, revisionist preferred PWDVA Appeal No.03 of 2021, which was again contested by present respondents. Learned Additional Sessions Judge, Jalna appreciated the respective cases advanced by each of the side and did not find any infirmity in the impugned judgment and order dated 07.03.2015 in Cri. M.A. No. 195 of 2010 and thereby dismissed the appeal.

Feeling aggrieved by the above, wife has preferred instant revision under section 397 of Cr.P.C.

SUBMISSIONS

5. Apart from placing written notes of arguments, learned counsel for revisionist would submit that, there was no dispute about marital status of parties. That, because of cruelty and maltreatment, revisionist was constrained to go and stay with her parents. That, husband apart from inflicting domestic violence, had neglected to maintain, and therefore, she was constrained to knock the doors of the court to seek maintenance at higher rent as demanded quantum was not granted.

6. Thrust of learned counsel for revisionist was that husband earned salary of over a lakh rupees and had additional agricultural income. In spite of placing 7/12 extract on record to that extent, the same has not been considered by learned Additional Sessions Judge and hence impugned judgment and order is sought to be set aside by allowing the revision and granting maintenance to the tune of Rs.10,000/- per month at least.

7. Above application is strongly opposed by husband supporting the order of Appellate Court to be just and proper.

8. Perused the papers. Admittedly, parties, who are husband and wife, seem to have parted ways due to marital discord. Learned J.M.F.C., Bhokardan, who was approached by revisionist vide Criminal M.A. No. 195 of 2010 after issuing notice to present respondent husband on claim set up by invoking section 12 of D.V. Act, appreciated the respective cases by each of the side and recorded the finding that there was domestic violence and being neglected, is entitled for maintenance and by recording specific finding as regards to point no.4 is concerned, observed that maintenance of Rs.10,000/- is sought, husband has admitted in cross about receiving Rs.40,000/- by way of salary. Consequently,

learned trial court awarded maintenance of Rs.3,000/- and also directed compensation to the tune of Rs.10,000/- with costs and maintenance was directed to be paid from the date of application. This order seems to be challenged by way of appeal bearing PWDVA Appeal No.03 of 2021.

9. Precisely two grounds are put-forth, firstly, agricultural income is not appreciated by learned trial court. Secondly, she is unemployed.

10. After going through the impugned order, it is emerging that, present applicant while instituting Cri. M.A. No.195 of 2010 has also parallelly instituted proceeding bearing Cri.M.A. No. 166 of 2011 wherein initially after granting Rs.3,000/-, in appeal said quantum was enhanced to Rs.5,000/-, but present applicant apparently seems to have suppressed such proceedings while instituting both proceedings bearing Cri. M.A. No. 195 of 2010 as well as while questioning the same before appellate court. There is discussion to this extent even by the appellate court. It is mandatory for party approaching to come with clean hands and to desist from withholding or suppressing material facts. Equity comes to the rescue of only those, who set up genuine claims.

11. On going through the papers and impugned orders, it is clear emerging that, husband received Rs.40,000/- by way of salary. Learned trial court has awarded total maintenance of Rs.8,000/- under various head. However, it does appear that in spite of setting up distinct agricultural income, no amount is granted under said head. Learned counsel for applicant has invited attention of this court to this aspect and he also invited attention to the 7/12 extract of agricultural land standing in the name of father-in-law and distinct plea in the name of respondent husband. 7/12 extract shows her husband's personal holding. However, though it is not clear from the said 7/12 extract as to whether land is irrigated or not, definitely husband must be deriving some income, but in absence of specific evidence about it, it would be just and equitable to award Rs.1,000/- towards said agricultural income. Hence, revisionist succeeds and the quantum of maintenance is required to be enhanced. Hence, I proceed to pass the following order :-

ORDER

- (i) Criminal Revision Application is hereby partly allowed.
- (ii) The monthly maintenance granted by the learned Judicial Magistrate First Class, Bhokardan in Criminal M.A. No.195 of 2010 and as confirmed by Additional Sessions Judge, Jalna in PWDVA Appeal No.03 of 2021 in favour of the applicant is modified as Rs.4,000/- per

month and the same shall be payable from the date of filing of the present Revision Application.

- (iii) It is clarified that there is no change in rest of the order of the Judicial Magistrate First Class, Bhokardan.
- (iv) Criminal Revision Application is disposed off in above terms.
- (v) Criminal Application No.1129 of 2024 is also disposed off.

(ABHAY S. WAGHWASE, J.)