



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

9 CRIMINAL WRIT PETITION NO. 368 OF 2025

SHIVAJI SHANKARRAO CHOKHAT
VERSUS
LATABAI SHIVAJI CHOKHAT AND OTHERS

Mr. Milind M. Patil (Beedkar), Advocate for the petitioner.
Mr. Ramchandra S. Patil, Advocate for respondent No.1.
Mr. B.B. Kulkarni, Advocate for respondent Nos. 2 and 3.

CORAM : KISHORE C. SANT, J.
DATE : 11.08.2025

PC :-

01. Heard learned Advocates for the parties. An order passed by learned Additional Sessions Judge No.2, Parbhani dated 24.10.2024 in PWDV Appeal No. 12 of 2018 is under challenge. The main proceeding is started by wife under section 125 of the Cr.P.C., which has been rejected by the learned Trial Judge. Subsequently, wife filed proceeding under the provisions of the Protection of Women from Domestic Violence Act and for other reliefs. The learned Trial Judge vide order dated 16.07.2015 allowed the application and directed to pay to wife an amount of Rs. 2000/- per month including the amount of maintenance under section 125 of the Cr.P.C. (the application under section 125 of the Cr.P.C. in-fact was rejected), Rs. 50,000/- towards compensation and Rs. 1000/-

towards house rent per month. Said order was challenged by the present petitioner-husband by filing an appeal bearing Cri. A. (DVA) No. 32 of 2015. The appeal came to be allowed. The order was set aside. The matter was remanded directing the Trial Court to first decide the issue of jurisdiction. After remand the learned Trial Judge passed order only holding that the Court has jurisdiction. It is submitted that the Court has not recorded any finding on the other issues except jurisdiction. This order came to be challenged in the proceeding in the appeal, where now the learned Appellate Court has passed the order, which reads as under :-

- "1. Appeal is partly allowed.
2. The judgment and order dated 20/01/2018 of the Judicial Magistrate First Class, Court No.2, Parbhani, in Cri.M.A. No.11/2013 is maintained to the extent of jurisdiction, with its earlier judgment on the findings of maintenance as well.
3. Send the record and proceedings to trial court immediately."

02. The petitioner is aggrieved by this order. It is his submission that while passing the judgment, the learned Sessions Court upheld finding to the extent of jurisdiction and it also maintained findings of maintenance given by the earlier judgment as well. The grievance is that, once the order passed on merit was set aside and was not in existence, there was no question of maintaining said order by the impugned order. It is further submitted that in-fact the husband is very

well paying the amount of maintenance in recovery proceeding filed by the wife. Learned Advocate for the petitioner on oral instructions submits that till now amount of Rs. 4,36,000/- is deposited by the husband. Learned Advocate for the respondent does not have any instructions to that effect.

03. Be it as it may, though the questions are raised in this proceeding, this Court finds that ultimately main object of the Act is to provide protection and other reliefs like maintenance to the wife. Though the order technically appears to be not correct, this Court finds that interest of justice demands that even pending the adjudication, it would be proper to direct the husband to continue to pay Rs. 2000/- per month to the wife.

04. In view of the questions raised, this matter requires to be remanded. However, in the interest of justice, the order dated 16.07.2015 is set aside. The matter is remanded back to the Trial Court to record finding on all the issues and to pass appropriate order by considering the evidence of the parties. The parties are at liberty to give fresh evidence. Till the decision the husband is directed to pay an amount of Rs. 2000/- (Rupees Two Thousand) per month to the wife.

05. The Criminal Writ Petition is accordingly disposed off.

[KISHORE C. SANT, J.]