



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

917 CRIMINAL REVISION APPLICATION NO. 291 OF 2023

HARSHA NILESH SURSE AND ANOTHER

....Applicants

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

.....Respondents

Mr. F. N. Shaikh, Advocate h/f Mr. N. R. Shaikh, Advocate for the applicants

Ms V. S. Choudhari, APP for the respondents/State

CORAM : ABHAY J. MANTRI, J.

DATE : 25th SEPTEMBER, 2025

PER COURT :

1. The applicants, the wife and son of respondent No.2-husband, are dissatisfied with the judgment and order dated 27-06-2022 passed by the learned Additional Sessions Judge, Jalgaon, in Appeal No. 46/2000, which confirmed the order passed by the learned JMFC, Jalgaon, in PWDVA No.81/2018. They have preferred this criminal revision.

2. Heard the learned advocate for the applicant and perused the impugned orders and the record.

3. It is to be noted that none appeared for respondent No. 2-husband, though served. It seems that this court passed an order on

21-09-2023 and condoned the delay caused in filing the revision application. It is pertinent to note that during the hearing of the said application, respondent No. 2 appeared through Advocate Y. H. Jadhav, and respondent Nos. 3 to 7 appeared through Advocate Mr. Girish Nagori, and after hearing the parties, this court has condoned the delay and pursuant to the said order, the revision application has been registered. Then again, by order dated 13-10-2023, this court has issued notice to the respondent Nos. 1 and 2. The note on the faradsheet dated 22-12-2023 indicates that respondent No. 2 refused to accept the notice. Therefore, the same was returned unserved. Accordingly, by order dated 22-12-2023, this court observed the same and held that notice was deemed to be served on respondent No. 2. Thereafter, respondent No. 2 remained absent from time to time. Then, by order dated 18-12-2024, the notice was issued to respondent No. 2. It appears from the order dated 26-02-2025 that Girish Nagori, Advocate, was present on behalf of respondent No. 2. However, the order denotes that the matter is adjourned for awaiting service and that the note of awaiting service is continued. The said facts indicate that respondent No. 2, despite the service of notice on 22-12-2023, remained absent. Therefore, the matter proceeded against him in his absence.

4. At the outset, it appears that learned JMFC, Jalgaon, in

para No. 13 has discussed about the income of respondent No. 2 and in para No. 17, the learned Judge held that the applicant No. 1 is unable to maintain herself and respondent No. 2 is liable to maintain her as he is an able-bodied person. Similarly, it is undisputed that respondent No. 2 is doing a job of meter reading and earning an amount. Therefore, held that the applicants are entitled to maintenance. However, the learned Trial Court granted maintenance of Rs. 3,500/- per month to the wife and Rs. 2,000/- per month to the son. The learned trial court has not granted the amount on account of rent. Being dissatisfied with the said order, the applicants have preferred the appeal before the learned Sessions Court. The learned Additional Sessions Court, Jalgaon, in para No. 17 observed that the applicants are unable to maintain themselves and respondent No. 2 is liable to pay the maintenance to them. Similarly, the applicants have made a prayer for the grant of rent as per Section 19 of the Protection of Women from Domestic Violence Act (Hereinafter referred to as the '***D. V Act***'). However, observed that the learned Trial court has rightly passed the order granting maintenance to satisfy the food, clothes and residence of the applicants and dismissed the appeal. As such, the applicants are before this court.

5. It is pertinent to note that respondent No. 2 has not disputed that the applicant is his wife and applicant No. 2 is his son.

Similarly, they are residing separately. Moreover, respondents have not challenged this order. Thus, non-challenge to the said order indicates that they are not aggrieved by the findings recorded by the learned trial court and the appellate court.

6. On perusal of the impugned judgments and orders, it appears that the learned Trial Court has not considered the mandate of Section 19 of the DV Act and erred in refusing to grant an amount under the head of providing alternate accommodation or rent to the applicants. Similarly, neither court has considered the fact that there are rises in the prices of the essential commodities, and therefore, the amount they have awarded seems to be too meagre. The said amount would not satisfy their daily needs. Thus, in my opinion, the amount awarded by the learned Trial court and confirmed by the learned Additional Sessions Court is not sufficient for the daily needs of the applicants. Therefore, the said amount needs to be increased.

7. Apart from this, the applicants are entitled to the relief under Section 19 of the DV Act. Similarly, it is the obligation of respondent No. 2 and other respondents to provide alternate accommodation to the applicants or to pay the amount of rent. However, both the courts below have erred in not considering the mandate in section 19 of the DV Act. Therefore, findings recorded by the learned Trial court that the maintenance amount includes the

amount of rent are liable to be set aside. In my opinion, the applicants are entitled to the amount of rent separately. Therefore, the order passed by the learned appellate court needs to be quashed and set aside, and the order passed by the learned Trial court needs to be modified to the extent of grant of maintenance as well as rent to the applicants.

8. In view of the above, the judgment and order dated 27-06-2022 passed by the learned Additional Sessions Judge, Jalgaon is hereby quashed and set aside and the order dated 21-01-2020 passed by the learned JMFC, Jalgaon is hereby modified to the extent of amount of maintenance to the applicants and providing the amount of rent to them under Section 19 of the DV Act.

9. As a result, the applicants are entitled to maintenance of Rs. 5000/- each per month instead of Rs. 3,500/- per month to the wife and Rs. 2,000/- per month to the son, from the date of application till its realisation and to an amount of Rs. 5000/- towards rent. Consequently, the criminal revision application is allowed and disposed of in the above terms.

[ABHAY J. MANTRI, J.]