



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL REVISION APPLICATION NO. 123 OF 2024

1. Mahendra Madhukar Khandare,
Age : 38 years, Occupation : Nil,
R/o. Plot No. 59, Gut No. 32/2/7,
Shivnirmal Colony, Pethenagar,
Bhavsingpura, Aurangabad.
 2. Dropadabai w/o Madhukar Khandare,
Age : 60 years, Occupation : Household,
R/o. as above.
 3. Madhukar Chintaman Khandare,
Age : 70 years, Occupation : Retired,
R/o. As Above.
 4. Sarita d/o Madhukar Khandare,
Age : 34 years, Occupation : Education,
R/o. As above.
 5. Vanita Rahul Wankhede,
Age : 36 Years, Occupation : Household,
R/o. Near Prabhat School,
Washim Bypass Road,
Akola, Taluka and District Akola.
 6. Anil Kashiram Tayde,
Age : 45 years, Occupation : Business,
R/o. Nimbha, Taluka Balapur,
District Akola.
- ... Applicants.

Versus

1. Arti Mahendra Khandare,
Age : 35 years, Occupation : Teacher,
R/o. TV Center Road, C-313,
Gajanan Nagar, N-11, Hudco,
Subhashchandra Bose Nagar,
Aurangabad.

At present C/o. Vasant Ankush Sasane,
Wankhedenagar, In front of Vivanta
Taj Hotel, Rafiq Zakeriya Campus,
Taluka and District Aurangabad.

2. Samradni d/o Mahendra Khandare,
Age : 3 Years, Occupation : Nil,
R/o. As above. ... Respondents

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Mr. B. G. Lathe, Advocate for the Applicants.

Mr. P. P. Giri h/f Mr. Sushmita Daund, Advocate for the Respondents.

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CORAM : ABHAY S. WAGHWASE, J.

Reserved on : 10.03.2025

Pronounced on : 13.03.2025

ORDER :

1. Present revision arises out of the judgment and order dated 19.03.2024 passed in Criminal Appeal No. 59 of 2023 arising out of the judgment and order dated 15.03.2023 passed by learned J.M.F.C. below Exhibit 1 in PWDVA No. 574 of 2021.

2. Learned counsel for the revisionists would submit that present revisionist no.1 and respondent no.1 are husband and wife, who got married on 21.05.2015 and out of their wedlock, they have respondent no.2 daughter. Learned counsel submitted that applicant was working as lecturer. However, due to marital discord, respondent wife left his company and instituted false complaint. That, revisionist

lost his job. He was earning Rs.54,570/-, but on account of losing job, he has lost such income. That, learned trial Judge granted maintenance to the tune of Rs.15,000/- per month to respondent wife and Rs.5,000/- per month to daughter. That, applicant has his own old aged parents to look after. He does not get salary which he was earlier earning. That, arrears are already paid. Extract of bank passbook are also placed on record. That, moreover respondent wife is working as Art teacher and earns salary of Rs.40,000/- and as such, she is capable of maintaining herself. That, even when there was no evidence about income of revisionist husband, learned trial court granted interim maintenance and therefore, he seeks indulgence on the ground that there is incorrect appreciation; secondly, having lost job, he has no income; thirdly, he has his own parents to maintain; fourthly, there is no evidence of commission of domestic violence and lastly, wife herself earns salary of Rs.40,000/-.

3. Above contentions and submissions are refuted by learned counsel for the respondent-wife pointing out that there was cruelty and ill-treatment, and therefore respondent-wife was constrained and compelled to leave applicant's company. That applicant husband worked as a professor and earned Rs.54,570/- per month. In spite of so, he failed and neglected to maintain not only respondent wife, but

also their daughter, which was his primary responsibility. That, because of violence, respondent-wife was compelled to initiate proceedings praying for interim maintenance by invoking Section 12 of the Protection of Women from Domestic Violence Act. That, considering the contentions raised on affidavit and on oral and documentary evidence adduced in the trial court, learned trial Judge directed interim maintenance to the tune of Rs.15,000/- to herself and Rs.5,000/- to daughter. That, husband failed to substantiate his contention that respondent-wife earned by working as a teacher and therefore, learned counsel finds no fault in the appreciation, conclusion and order passed by both, learned J.M.F.C. as well as learned Additional Sessions Judge. While concluding, it is submitted that there is no merit in the revision.

4. Heard parties at length and also perused the notes of arguments placed on record. Admitted facts are that, revisionist no.1 and respondent no.1 are husband and wife, who got married in May 2015. It seems from their respective cases that present respondent wife instituted proceedings under the Protection of Women from Domestic Violence Act vide PWDVA No. 574 of 2021 before learned J.M.F.C., Aurangabad alleging domestic violence, neglect and thereby set up a case for compensation under Section 12 and other provisions

of the said Act. Learned J.M.F.C. called upon present revisionist husband to answer the claim and after appreciating the oral and documentary evidence placed before the trial court, interim maintenance has been granted by invoking Section 23 of the Protection of Women from Domestic Violence Act and directed the husband to pay Rs.15,000/- per month to respondent wife and Rs.5,000/- per month to their daughter.

5. Above order of interim maintenance was questioned before learned Additional Sessions Judge vide Criminal Appeal No. 59 of 2023. On going through the impugned judgment, the first appellate court has initially in the reasoning part, after formulating points, threw light on the scope of Section 23 of the Protection of Women from Domestic Violence Act and thereafter, appreciated the cases advanced by both sides. In para 16, it is observed that that *prima faice* first appellate court found that husband was working as a professor and earning salary of Rs.54,570/-. His claim that he lost his job is also not found to be correct as learned first appellate court has recorded a finding that he himself resigned. Acknowledging the obligation of husband to maintain wife and finding no evidence in support of independent earning by wife, learned first appellate court confirmed the order passed by learned J.M.F.C. Both the orders of the

courts below are regarding interim maintenance and only on *prima facie* satisfaction, both impugned orders are passed by learned trial court as well as first appellate court. In revision, no good case is made out so as to interfere. Required parameters for granting interim maintenance are correctly appreciated by learned J.M.F.C., and further upheld by learned first appellate court. Therefore, even this Court finds that view taken by both, learned J.M.F.C. as well as learned first appellate court is the best possible view that could emerge from the evidence placed before both the courts below. No case for interference being made out, revision deserves to be dismissed. Hence, the following order :

ORDER

The Criminal Revision Application is dismissed.

[ABHAY S. WAGHWASE, J.]