



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL REVISION APPLICATION NO. 161 OF 2024

Shaikh Zulfekar S/o Shaikh Ashfak,
Age : 40 years, Occu : Labour,
R/o Udgir, Tq. Udgir, District Latur

... Applicant

Versus

1. Salma Begum w/o Zulfekar,
Age : 35 years, Occu : Tailor,
R/o. Shivaji College Road,
Near Maqbul Bawadi, Ashok Nagar,
Udgir, Tq. Udgir, District Latur.
2. Tamas Shaikh s/o Shaikh Zulfekar,
Age : 13 years, Minor U/G of mother
Salma Begum W/o Zulfekar
R/o As above.
3. Anam Shaikh S/o Shaikh Zulfekar,
Age : 11 years, Minor U/G of mother
Salma Begum Wio Zulfekar
R/o As above.
4. Sadaf Shaikh S/o Shaikh Zulfekar,
Age : 07 years, U/G of mother
Salma Begum W/o Zulfekar
R/o As above (Original applicant Nos.1 to 4)
5. Shakh Ashfaq S/o Husainsab,
Age : 65 yours, Occu : Labour,
R/o Bansheki Road, Kranti Nagar,
Udgir. District Latur.
6. Shaikh Faruk s'e Shaikh Ashfaq
Age : 35 years, Occu: Labour,
R/o As above
7. Shaikh Najma Begun w/o Shaikh Ashfaq
Age : 62 years, Occu : Household
R/o As above

8. Nagma Ashfaq Shaikh,
Age : 30 years, Occu. : Household,
R/o. As Above.
9. Nilofar w/o Mainoddin Shaikh,
Age : 32 years, Occu : Household,
R/o Samata Nagar, Udgir,
10. Farukha w/o Zulfekar,
Age : 30 years, Occu: Household,
R/o Banshelki Road, Udgir,
District Latur.

.... Respondents
(Original Non-Applicant No. 2 to 7)

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Ms. C. Y. Jigalekar h/f. Mr. A. A. Bhosale, Advocate for Applicant.
Mr. A. G. Dalal, Advocate for Respondent Nos.1 to 4.

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CORAM : ABHAY S. WAGHWASE, J.
RESERVED ON : 10 NOVEMBER 2025
PRONOUNCED ON : 13 NOVEMBER 2025

JUDGMENT :

1. Revisionist, who is husband, hereby questions the judgment and order passed by learned Additional Sessions Judge, Udgir, Dist. Latur in Criminal Appeal No. 23 of 2022 arising out of Criminal M.A. No.162 of 2017 dealt and decided by the learned Judicial Magistrate First Class, Udgir.

2. Present respondent wife on behalf of herself as well as her minor children instituted proceedings under the Domestic Violence Act and setting up prayers including grant of interim maintenance and cost etc.

3. Learned Magistrate after hearing both sides, partly allowed the application directing present revisionist to pay Rs.4,000/- per month by way of maintenance to respondent – wife, Rs.2,000/- per month each of the children with grant of Rs.1,500/- per month by way of rent and awarded cost of Rs.15,000/- and Rs.3,000/-, respectively.

4. Dissatisfied by the said judgment and order passed by learned Judicial Magistrate First Class, present revisionist approached the Hon'ble Sessions Court, Udgir by filing Criminal Appeal No. 23 of 2022 and assailed the judgment and order of learned Judicial Magistrate First Class on various grounds.

After appreciating the available evidence and on hearing both sides, learned first appellate court was pleased to observe that order passed by learned Judicial Magistrate First Class needs to be confirmed and thereby dismissed the appeal.

5. Learned counsel for revisionist would submit that excess amount has been granted by way of maintenance. Rather, he is just a labourer working in a tyre shop. That, there was no iota of evidence in support of conducting wholesale business of tyre. On the contrary,

according to learned counsel, wife was doing tailoring work and as such she has sufficient means to maintain herself. That, the observations, more particularly in paragraph nos. 2, 3 and 4 of the first appellate court's judgment, are questioned for want of evidence.

6. Supporting the judgment and order of trial court as well as first appellate court, learned counsel for respondents submitted that, there was maltreatment and respondent wife was constrained to leave the house along with their children as there was neglect to provide maintenance. She was constrained to file proceedings under the Domestic Violence Act seeking protection as well as maintenance. Learned counsel for respondents pointed out that, in one of the criminal proceedings, revisionist himself had declared his occupation as conducting wholesale business of tyres, and as such, he had sufficient income apart from other sources of income. Therefore, both, learned trial court as well as first appellate court, were unanimously holding entitlement of maintenance and protection. Hence, it is urged that the revision be dismissed for want of merits.

7. After hearing above submissions, being revision this court merely expected to see whether there is illegality or perversity in the impugned order. On going through the papers, it transpires that present

respondent wife for herself as well as on behalf of her minor children instituted proceedings under Domestic Violence Act i.e. under section 12 of D. V. Act and contended that after a year of marriage, there was maltreatment and beating in the backdrop of demand of money for motorcycle and household articles and she being kept starved. It was also contended before learned trial court that present revisionist performed second marriage and had neglected to provide maintenance to the respondent wife. That, she being a Parda-nasheen lady, is unable to leave the house and she does not carrying any tailoring work as alleged by the revisionist in his say at Exh.16.

8. After appreciating the respective cases advanced by the learned counsel for each of the party, learned trial Judge partly allowed the application bearing Criminal M.A. No.162 of 2017 by judgment and order dated 16.03.2020 prohibiting the present revisionist from inflicting domestic violence and further directed to pay Rs.4,000/- per month to wife, Rs.2,000/- per month to each of the children and to also pay Rs.1,500/- per month towards rent and an amount of Rs.15,000/- and Rs.3,000/- towards costs were also imposed.

9. Above proceedings seems to have been challenged by approaching the the Hon'ble Sessions Court by filing Criminal Appeal

No.23 of 2022. Judgment and order of first appellate court is also visited and it is noticed that all points agitated therein are considered by the first appellate court after incorporating necessary points and appreciating the evidence of respondent wife (AW1) and witness at Exh.42 (AW2). While examining respondent wife (AW1) and witness (AW2), there is nothing adverse so as to disbelieve their testimony.

10. Main contention raised before this court is that there was no iota of evidence about present revisionist conducting wholesale business of tyre. Learned counsel for respondents had invited attention of this court to the observations of first appellate court in paragraph no.15 as well as trial court. It appears that, one criminal case under section 498-A of IPC was filed in police station, Udgir in the year 2009, wherein present revisionist had filed application for pre-arrest bail and contended in the affidavit at Exh.23 that he is conducting wholesale tyre business at Nanded Naka, Udgir, wherein goods worth of Rs.30,00,000/- are stored for sale.

11. Therefore, with such evidence, it does not lie in the mouth of revisionist that he works as a labour on tyre shop and he has no sufficient means to comply the order of trial court.

12. For above reasons, no case being made out on merits in revision, the same is dismissed.

(ABHAY S. WAGHWASE, J.)