



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 1401 OF 2024

VYANKATI W/O LOKADU AAVATIRAK AND OTHERS
VERSUS
ANUSAYA W/O VYANKATI AAVATIRAK AND OTHERS

Advocate for the Petitioners : Mr. A. G. Vasmatkar
Advocate for Respondents : Mr. S. R. Bagal

WITH

CRIMINAL WRIT PETITION NO. 1640 OF 2025

ANUSAYA W/O VYANKATI AAVATIRAK AND OTHERS
VERSUS
VYANKATI W/O LOKADU AAVATIRAK AND OTHERS

Advocate for the Petitioners : Mr. S. R. Bagal
Advocate for Respondents : Mr. A. G. Vasmatkar

CORAM : SACHIN S. DESHMUKH, J.

Date : 26th November, 2025

ORDER :-

1. Criminal Writ Petition No. 1640 of 2025 - Not on Board.

Taken on Board.

2. Both the writ petitions are presented challenging the judgment and order dated 03.04.2024 rendered by the learned Extra Joint Additional Sessions Judge – 1, Nanded in Criminal

Appeal No. 56 of 2019, endorsing the judgment and order dated 15.07.2017 rendered by the learned Judicial Magistrate First Class, Mudkhed, in P.W.D.V.A. No. 07 of 2014.

3. In Criminal Writ Petition no. 1401 OF 2024, the petitioners i.e. husband and family members have prayed for quashing and setting aside the orders under challenge whereas, in Criminal Writ Petition no. 1640 of 2025, the petitioners i.e. wife and children have prayed for enhancement of maintenance granted in orders under challenge.

4. Since the identical issues are involved, both the petitioners are taken up together for hearing. For the sake of convenience, parties are referred from the status in Writ Petition no. 1401 of 2024.

5. Petitioner No. 1 namely Vyankati was married with respondent No. 1 namely Anusaya on 13.05.2007. Initially, the respondent No. 1 was treated well for about one and half years. Thereafter, petitioners started subjecting respondent to ill-treatment for demand of rupees 3 lakhs for laying a pipeline in the agricultural field and subsequently, was driven out of the

matrimonial house. Petitioners No.2 to 6, who are close relatives of the petitioner No.1 also subjected cruelty to respondent No. 1. Hence, the respondent No. 1 presented the complaint under the provisions of Domestic Violence Act.

6. The learned Magistrate, upon considering the complaint and material on record, rendered a positive finding that that acts of petitioners constituted domestic violence and partly allowed the application, granting maintenance of Rs. 2,000/- per month to the respondents with other reliefs.

7. Raising an exception to the same, the petitioners preferred the Criminal Appeal No. 56 of 2019, which was dismissed by the learned Additional Sessions Judge holding that the order passed by the learned Magistrate is legal, proper and justified.

8. Aggrieved by the same, petitioners have approached this Court by way of present writ petition under Article 227 of the Constitution of India.

9. The learned counsel for petitioners submits that both the Courts below have erred in ignoring the fact that there is no

domestic violence on the part of petitioners. The solitary reason that the inability of wife to maintain herself cannot be a ground for granting maintenance. As such, prayed to allow the petition.

10. Per contra, the learned counsel for respondents supported the finding rendered in impugned order and considering the expenses and other factors, prayed for enhancement of maintenance.

11. I have heard learned counsel for litigating sides. Perused the record made available.

12. Admittedly, in absence of pleadings on the part of petitioner while presenting the complaint, it is not open for the petitioner to lead the evidence at a subsequent stage. So far as the aspect of domestic violence is concerned, the expression is comprehensive. Even, doubting a character of the wife would constitute the offence of domestic violence. Such aspects have been rightly considered by the Courts below. Resultantly, no error is committed while granting the maintenance to the respondents.

13. It is pertinent to note that the Respondent / wife has

preferred the petition seeking enhancement of maintenance without approaching the concerned Appellate Court. As such, failure to present appeal before the Appellate Court, would disentitle the respondent / wife to seek enhancement. Hence, I am of the opinion that same ought to have been availed before proceeding further. Hence, this Court is not inclined to interfere with the same.

14. In that view of the discussion, no error could be noted in the orders rendered by the learned Magistrate as well as the learned Additional Sessions Judge.

15. Resultantly, both the petitions *sans* merit and accordingly, the same stand dismissed.

(SACHIN S. DESHMUKH, J.)

Omkar Joshi