



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

905 CRIMINAL REVISION APPLICATION NO. 252 OF 2025

MAHENDRA DIPAJI AHIRE

....Applicant

VERSUS

MEERA MAHENDRA AHIRE AND ANOTHER

.....Respondent

Mr. A. S. Gandhi, Advocate for the applicant

CORAM : ABHAY J. MANTRI, J.

DATE : 26th SEPTEMBER, 2025

PER COURT :

1. The applicant-husband/original respondent has preferred this revision challenging the judgment and order dated 07-05-2025 passed by the learned Additional Sessions Judge, Kopergaon in Criminal Appeal No.38/2022, whereby confirmed the order passed by the learned 3rd Additional Chief Judicial Magistrate, Kopergaon whereby granted maintenance to the respondents/original applicant Nos. 1 and 3 respectively of Rs.4000/- each under section 20(1)(D) and further granted an amount of Rs.2000/- towards payment of rent. The learned Magistrate also granted compensation of Rs.50,000/- under Section 22. [Hereinafter the parties are referred to as per their designation in the trial court].

2. Heard the learned advocate for the applicant. Perused

the judgments and orders and record.

3. At the outset, it appears that the applicants being wife and daughter have filed an application under Sections 12, 19, 20(3), 20(k) and 22 of the Protection of Women from Domestic Violence Act [Hereinafter referred to as the 'DV Act'] against the respondent-husband for seeking various reliefs under the said DV Act. The respondent appeared in the matter and filed his say/reply to the application and urged for rejection of the application. After considering the evidence on record the learned Magistrate vide judgment and order dated 26-05-2022 allowed the application holding that the applicants have proved that the respondent has committed domestic violence and therefore, the applicants are entitled for protection and maintenance.

4. Being aggrieved by the said judgment and order the respondent has preferred the appeal before the learned Additional Sessions Judge, Kopergaon. The learned Additional Sessions Judge, Kopergaon after considering the material on record confirmed the order passed by the learned Magistrate and dismissed the appeal. As such the respondent (the applicant herein) has preferred this criminal revision application.

5. It is pertinent to note that the respondent is not disputing that applicant No.1 is his wife and applicant No.2 is his

daughter. The respondent adduced the evidence. However, despite granting an opportunity, the respondent failed to adduce the evidence. Therefore, evidence close order was passed below Exh.1 and the learned trial court after considering unchallenged evidence of the applicant passed the judgment and order.

6. It also appears from the para No. 8 of the judgment passed by the learned Magistrate that the respondent by filing the application at Exh.8 raised the objection that this court has no jurisdiction to deal with the matter and vehemently contested the said application. The learned Magistrate after considering the contentions, rejected the said application holding that he has jurisdiction to entertain the matter. Thereafter, the respondent remained absent and did not challenge or deny testimony of the applicants and her witness and therefore, their testimony remained challenged. There is no reason to disbelieve the same.

7. Similarly, the learned Magistrate after discussion, in para Nos. 9 and 10 has categorically held that the applicants proved that the respondent has committed domestic violence against her and therefore, the applicants are entitled for protection order and accordingly recorded the findings.

8. Similarly, next point is that for how much maintenance or amount to pay the rent, the applicants are entitled. The learned

Judge has discussed in para Nos. 10 to 15 and held that the applicants are entitled for maintenance of Rs.4000/- and an amount of Rs.2000/- towards payment of rent.

9. In para No. 14, the learned Magistrate has observed that the respondent was in employment with the Central Railway, Matunga as a Fitter and his salary was Rs.40,000/- per month. Said facts has not denied or disputed by the respondent in his reply to the application. Therefore, being unchallenged pleadings as well as evidence of the applicants, the learned Judge held that the respondent has sufficient means of income to pay the maintenance to the applicants and accordingly granted the maintenance and the amount of rent as stated above. While dealing with the entitlement of the compensation as per section 22, the learned Judge observed that the respondent has not provided anything to the applicants for their livelihood and therefore, the applicants are entitled for the compensation of Rs.50,000/-.

10. The learned advocate fore the applicant vehemently contended that during pendency of the appeal, the applicant was retired on 30-07-2023. However, he failed to bring those facts on record to modify the order passed by the learned Magistrate. Therefore, he urged for permitting the applicant to file proper proceeding before the learned Magistrate for modification of the

impugned judgment and order. However, he failed to point out from the provision of the DV Act about having remedy to him as contemplated under Section 127 of the Cr. P. C. When proceeding was concluded till that period the applicant was in service and therefore, in revisional jurisdiction scope is very limited whether the impugned judgment and order is legal or not has to be considered.

11. Apart from that here in stead of providing the maintenance and rent amount to the applicants, the respondent challenged the said order in appeal before the court and thereby dragged the respondent who has no source of income to this court and contest the matter. Therefore, in my view the applicants are entitled for compensation as determined by the learned Magistrate.

12. The learned Additional Sessions Judge in para Nos. 9 to 13 has discussed in detailed about the entitlement of the maintenance amount, payment of rent and compensation as held that the learned Magistrate has not committed any error in partly allowing the application. Therefore, he dismissed the appeal and confirmed the order passed by the learned Magistrate. It is pertinent to note that it is the obligation of the husband to maintain his wife and children. He cannot be permitted to plead that he is unable to maintain them due to financial constraint as long as he is capable of earning. Furthermore, the judicial note can be taken that there are

risers in the essential commodities and therefore, the maintenance amount granted to the applicants appears to be too meagre to satisfy their daily needs.

13. On perusal of the impugned judgments and orders, it appears that the learned Magistrate and the first appellate court on proper appreciation of evidence on record passed the orders. However, the respondent failed to point out that the said orders are manifestly perverse or improper. Similarly, the respondent failed to point out that he does not have sufficient means to maintain the applicants or the findings recorded by the learned Magistrate as well as the learned appellate court are illegal or perverse to interfere in the impugned orders. In view of above discussion, it is evident that the respondent failed to maintain the applicants when he has sufficient means to maintain them. Consequently, the order passed by the learned Magistrate and confirmed by the learned Additional Sessions Judge are just and proper. Therefore, I do not find any substance in the contention of the learned advocate for the applicant (herein) in that regard to interfere in the revisional jurisdiction. As a result, the criminal revision application being devoid of merits, stands dismissed. No order as to costs.

14. Further, I do not find substance in his contention permitting the applicant to file appropriate application before the

learned Magistrate. However, it is made clear that if the applicant is entitled to file any application in accordance with law, he is at liberty to file the same.

[ABHAY J. MANTRI, J.]

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