



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

52 CRIMINAL REVISION APPLICATION NO. 379 OF 2023

MIR AZAM ALI S/O MIR BASITH ALI
VERSUS
ANJUM SULTANA D/O SAYYAD NURUL BASITH

...
Mr. Ajeet B. Kasliwal – Advocate for Applicant
Mr. R.A. Shinde & Mr. S.B. Rajade – Advocates for sole Respondent
...

CORAM : SACHIN S. DESHMUKH, J.
DATE : 08.09.2025

ORDER :

1. Challenge is raised to the order passed by the learned Additional Sessions Judge, Aurangabad, confirming the order of the Judicial Magistrate First Class, Aurangabad, allowing the application presented by respondent under the Domestic Violence Act, 2005 (*'the D.V. Act, 2005'* for short). The respondent had filed an application under Section 12 of the D.V. Act, 2005 seeking reliefs under Sections 18(a), 19(f), 20 and 22 thereof.

2. The marriage of the present respondent and the applicant was solemnized in the year 1989. The present applicant allegedly subjected the respondent to domestic violence, as a result the respondent was forced to leave the matrimonial house. Out of the said wedlock, a son namely, Hasham Ali is born. The respondent was further subjected to

domestic violence. As such, prayed to grant reliefs as sought in the application. The parties to the proceeding are referred by their status in the proceedings before the Magistrate.

3. While resisting the application, the respondent presented say, admitting the marriage with the applicant and the birth of the son. However, it was contended that in the year 1997, a customary divorce had taken place between the parties. It was further submitted that, even thereafter, in the year 2013, a settlement was arrived at between the parties in the presence of the witnesses. Pursuant to the said settlement, certain amount was paid by way of cheque towards final settlement. It was further submitted that the applicant is taking care of the son, who is pursuing studies. In view of the customary divorce, the marital relationship between the parties has come to an end. These material facts have been suppressed by the applicant. As such, the respondent prayed for rejecting the application.

4. The Judicial Magistrate First Class, Aurangabad, considering the pleadings, material on record and the legal position, upheld the entitlement of the applicant and awarded maintenance under Section 20(3) of the D.V. Act, 2005, and further directed the applicant not to indulge in domestic violence. However, other reliefs prayed by the applicant are rejected by the Magistrate.

5. Aggrieved by the said order, the respondent preferred an appeal before the Additional Sessions Judge, Aurangabad, which is dismissed confirming the order passed by the Magistrate. In the aforesaid backdrop, the present Civil Revision Application has been filed by the original respondent.

6. Mr. Kasliwal, learned Counsel for the revision petitioner, vehemently submitted that the application presented by the respondent is liable to be dismissed on account of suppression of the fact that a divorce had already taken place between the parties, which was not disclosed while presenting the application. It is further contention of the learned Counsel for the petitioner that, in the absence of domestic relationship between the parties, there was no occasion for the Courts below to entertain the application presented by the applicant. Learned Counsel for the applicant further submitted that, the certificate maintained by the Board is a public document and ought to have been taken into consideration by the Courts below, in the wake of the provisions of Section 74 of the Evidence Act and the admissibility of the said document was required to be considered by the Courts below. Learned Counsel for the petitioner, in support of submissions, has placed reliance on the following judgments of this Court :

- (a) **Sunil Gangadhar Kadam Vs. Jayashri Sunil Kadam**
reported in *AIR ONLINE 2023 BOM 368*
- (b) **Murlidhar Rambhau Bodkhe Vs. Sangita Murlidhar**

Bodkhe reported in *2023 ALL MR (Cri) 2098*

- (c) **Smt. Sadhana Hemant Walwatkar Vs. Hemant Shalikramji Walwatkar** reported in *2019 ALL MR (Cri) 2299*
- (d) **Anita Anand Tambe Vs. Shri. Anand Eknath Tambe** reported in *2018 ALL MR (Cri) 3930*
- (e) **B. Balachandra Rao and Anr. Vs. Ms. Sanjna Navneet Rao and Ors.**, reported in *2018 ALL MR (Cri) 4498*
- (f) **Kishor Shrirampant Kale Vs. Sou. Shalini Kishor Kale and Ors.**, reported in *2010 (4) AIR Bom R 497*

7. Per contra, Mr. Rahul A. Shinde, learned Counsel for the respondent, supported the order under challenge by submitting that the contentions raised by the petitioner do not deserve any consideration for the reason that the relationship between the litigating parties continues to subsist. It was further submitted that owing to the domestic violence on the part of the respondent, resulted in driving the respondent out of the matrimonial house, constitutes a continuous cause. Even the past event of domestic violence unequivocally entails the applicant to claim reliefs under the provisions of the Act, 2005.

8. Learned Counsel for the respondent also contended that, had there been a divorce in the year 1997, there would not have any occasion for executing an agreement of divorce in the year 2013. As such, the plea of divorce does not warrant any consideration. In support of submissions, placed reliance on the judgment of this Court in the case of **Ahsanullah @**

Javed Khan Vs. Shahana Parvin @ Brijis reported in *2023 ALL MR (Cri)* 2576.

9. Having considered the submissions of both the sides and perused the documents placed on record, it is a matter of record that the marriage between the litigating parties was solemnized in the year 1989, and out of the said wedlock, a son is born. There is no dispute in that regard.

10. The submission of learned Counsel for the petitioner that there exist no domestic relationship between the parties in view of the certificate issued by the Board, is a public document, does not deserve consideration as the applicant herein has not cross-examined the present respondent so as to confront with the said certificate. Inasmuch as the plea of a customary divorce in the year 1997 and the subsequent agreement for divorce in the year 2013 are inconsistent pleas put forth by the applicant appears to be an attempt to claim that there is no existing domestic relationship between the litigating parties.

11. Learned Counsel for the respondent is justified in submitting that had there been divorce in the year 1997, there would have been no necessity for any reason or justification to execute a further agreement for divorce in the year 2013. Thus, the Courts below have rightly taken into account the existence of a domestic relationship between the litigating parties, resultantly upheld the entitlement of the respondent for

maintenance under the provisions of the D.V. Act, 2005. It is evident that the enactment is a piece of beneficial legislation. The object of the Act is to confer protection upon an aggrieved person in the event of domestic violence. In the present case, in view of the admission on behalf of the applicant regarding existence of the relationship, coupled with the failure to establish severance between the parties, the findings recorded by the Courts below cannot be faulted.

12. Insofar as the reliance placed by the learned Counsel for the petitioner on the judgments (*supra*) is concerned, the same is of no assistance to the petitioner, since the respondent has unequivocally established that the respondent, though having entered into a subsequent marriage, has refused to maintain the applicant. This entitles the applicant to claim reliefs under the relevant provisions of the D.V. Act, 2005. On the contrary, reliance placed by the learned Counsel for the respondent on the judgment of **Ahsanullah @ Javed Khan Vs. Shahana Parvin @ Brijis** (*supra*) reinforces the legal position that unless the order is perverse, arbitrary or unreasonable, the exercise of revisional jurisdiction should be minimal, and there would be no occasion to interfere with the concurrent findings of fact. It was further contended on behalf of the respondent that, even assuming that the parties were divorced, a divorced woman cannot be denied the right to initiate proceedings under Section 12 and claiming monetary reliefs under

Section 20 of the D.V. Act, 2005. In my considered view, therefore, the submissions advanced on behalf of the petitioner does not warrant consideration.

13. Undoubtedly, Section 12 of the D.V. Act, 2005, entitles an aggrieved person to seek reliefs in respect of domestic violence. Reference to the observations of the Hon'ble Supreme Court in the case of **Juveria Abdul Majid Patni Vs. Atif Iqbal Mansuri and Anr.**, 2015 ALL MR (Cri) 2912 (S.C.), particularly paragraph 30 thereof :

“30. An act of domestic violence once committed, subsequent decree of divorce will not absolve the liability of the respondent from the offence committed or to deny the benefit to which the aggrieved person is entitled under the Domestic Violence Act, 2005 including monetary relief under Section 20, child custody under Section 21, compensation under Section 22 and interim or ex parte order under Section 23 of the Domestic Violence Act, 2005.”

Thus, an act of domestic violence once committed, will not deny the benefit to which the aggrieved person is entitled under the D.V. Act, including monetary relief under Section 20, of the D.V. Act. In view of the settled legal position, the contentions of the husband does not warrant any consideration.

14. Thus, in the light of reasons recorded herein above the fact that, the Courts below have recorded concurrent findings of the fact rendered by the Courts below while allowing the application presented by the

respondent. The orders upholding entitlement of applicant–wife to claim relief under Section 20 (3) of the D.V. Act, 2005 to receive maintenance is in conformity with the provisions of the D.V. Act, 2005.

15. Resultantly, the application is liable to be dismissed and the same is accordingly dismissed. However, there shall be no order as to costs.

[SACHIN S. DESHMUKH]
JUDGE

Pooja Kale/