

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO.1243 OF 2017

Vijay s/o Kallyanappa Hanchinal	...Petitioner
<i>Versus</i>	
Mrs. Rupa Vijay Hanchinal & Anr.	...Respondents

WITH
CRIMINAL APPLICATION NO.259 OF 2018
IN
WRIT PETITION NO.1243 OF 2017

Mrs. Rupa w/o Vijay Hanchinal	...Applicant
<i>Versus</i>	
Vijay s/o Kallyanappa Hanchinal & Anr.	...Respondents

Mr. Hemant Surve i/by Mr. Kandarkar Abhijeet Jayant, Mr. Kshitij Surve, Advocates for Petitioner.
Mr. Jayant J. Satdhar, (Legal Aid Counsel) for the Respondent No.1
Mr. Shilpa G. Talhar, APP for State.

CORAM: MADHAV J. JAMDAR, J.
DATED : 27th February 2025

JUDGMENT:

1. Heard Mr. Hemant Surve, learned Counsel appearing for the Petitioner and Mr. Jayant Satdhar, learned Counsel appearing for the Respondent.

2. By the present Writ Petition, filed under Article 227 of the Constitution of India, the challenge is to the Order dated 25th

February 2016 passed by the learned Additional Sessions Judge, Solapur in Criminal Appeal No. 42 of 2013 as well as to the Judgment and Order dated 18th January 2013 passed by the learned Judicial Magistrate, First Class, Solapur in Criminal Miscellaneous Application No.1068 of 2011.

3. By the said impugned Order dated 18th January 2013, the learned JMFC directed payment of Rs.10,000/- per month as maintenance to the Respondent-wife from the date of filing of the application, which has been filed on 30th November 2011 and further directed that a room be allotted to the Respondents, at 22, Vishal Nagar, Bharsingpura Road, Aurangabad.

4. The said impugned Order dated 18th January 2013 is challenged by the Petitioner by filing said Criminal Appeal No.42 of 2013. By the impugned Order dated 25th February 2016 passed by learned Additional Sessions Judge, Solapur, the said Appeal has been partly allowed by directing that the Petitioner shall pay monthly maintenance of Rs.7,500/- per month to the Respondent No.1-Wife instead of Rs.10,000/- as directed by the learned J.M.F.C. from the date of the said Order.

5. It is the main contention of Mr. Surve, learned Counsel for the Petitioner that the Court exercising power under the Protection of Women from Domestic Violence Act, 2005 (“DV Act”) has to frame issue regarding the aspect whether the Applicant was subjected to domestic violence and if the finding to such issue is affirmative, then only the Orders as contemplated under the D.V. Act can be passed. He submitted that in the entire application, which has been filed under D.V. Act the said crucial aspect of domestic violence is totally absent and therefore the Court exercising power under DV Act has no jurisdiction to pass the orders, which are impugned in the present Writ Petition and in fact, said Miscellaneous Application No.1068 of 2011 filed under the D.V. Act is not maintainable.

6. To substantiate said contention that in the absence of any findings as to domestic violence, the Court lacks jurisdiction to award any relief under the D.V. Act, Mr. Surve, learned Counsel relied on several judgments. He therefore submitted that as the said jurisdictional fact is not proved, the impugned Orders are liable to be quashed and set aside.

7. On the other hand, Mr. Jayant Satdhar, learned Counsel for the Respondent submitted that the pleadings in the application filed under the D.V. Act shows that the specific contentions are raised regarding domestic violence. He submitted that the evidence to that effect has also been led. Therefore, his submission is that the jurisdictional fact is established and therefore, this Court need not interfere in the impugned Orders.

8. Before considering the rival contentions, it is necessary to set out certain factual aspects, as follows :

i. The marriage between the Petitioner and the Respondent took place on 25th May 2010.

ii. It is the case of the Petitioner that on 23rd April 2011, the Respondent went to her parental house at Solapur for attending marriage of her sister and thereafter has not returned back. It is the case of the Respondent No.1 that she was not allowed to enter the house.

iii. On 26th July 2011, the Petitioner filed proceedings seeking restitution of conjugal rights before the Family Court at Aurangabad.

iv. After receipt of the summons of the said proceedings initiated before the Family Court, Aurangabad, the Respondent on 29th November 2011 instituted proceedings being Criminal M.A. No. 1068 of 2011(D.V. proceedings).

v. The said proceeding for restitution of conjugal rights were transferred from the Court of Family Court, Aurangabad to the District Court, Solapur.

vi. In the said DV proceedings, evidence has been led.

vii. By the impugned Judgment and Order dated 18th January 2013 of the learned JMFC, Solapur maintenance has been granted of Rs.10,000/- per month and further direction is issued to provide one room to the Respondent No.1.

viii. The said Order has been challenged by the Petitioner by filing Criminal Appeal No.42 of 2013 in the Court of the learned Sessions Judge, Solapur.

ix. During pendency of the said Appeal, by the Judgment and Decree dated 28th July 2015 passed in Petition No.A-170 of 2013, a Decree of restitution of conjugal rights has been passed by the learned Principal Judge, Family Court, Solapur.

x. By the Judgment and Order dated 25th February 2016 passed by the learned Additional Sessions Judge, Solapur in Criminal Appeal No.42 of 2013, the Order of learned JMFC dated 18th January 2013 is confirmed subject to the modification that maintenance of Rs. 7,500/- per month has been granted instead of Rs.10,000/- per month.

9. Before considering the aspect whether the Respondent No.1-Wife has proved domestic violence, it is necessary to make reference to some of the decisions on which reliance is placed by Mr. Surve, learned Counsel of the Petitioner.

i. Mr. Surve, learned Counsel relied on the decision of the Supreme Court in the case of ***Sangita Saha vs. Abhijit Saha***¹ wherein, it has been held that the Applicant, who has filed application under the provisions of DV Act is not entitled to relief under the DV Act unless she establishes domestic violence. The Supreme Court has further held that the relief under the DV Act can be declined where ingredients of domestic violence are wholly absent.

ii. Mr. Surve, learned Counsel also relied on the decision of the Kerala High Court in the case of ***Mahinkutty & Ors. vs. Anshida***² and more particularly on paragraph 10 of the same:

“10. The statutory scheme confers the power on the Magistrate to grant such relief if the women is able to establish domestic violence. The predicate acts of domestic violence is sine qua non for granting any reliefs as referable under the Act. No relief as referable under the Act is maintainable unless the predicate act of domestic violence is established.”

iii. Mr. Surve, learned Counsel for the Petitioner has relied on the Judgment of a learned Single Judge of Goa Bench of this Court

1 (2019) 18 SCC 81

2 2021 SCC OnLine Ker 1971

in the case of *Dajvip V. Patkar vs. Vina D. Patkar*³ and more particularly on paragraph 11 of the same, which reads as under:

*“11. The statement of object and reasons of the Act of 2005 shows that the Act of 2005 is enacted to provide for more effective protection of the rights of women guaranteed under the constitution, who are victims of violence of any kind, occurring within the family and for matter connected therewith or incidental thereto. Thus, it is clear that the Act of 2005 makes provision for effective protection of the rights of women, who are subjected to the acts of domestic violence, as defined in Section 2(g), read with Section 3 of the Act of 2005. It is clear that the jurisdiction of the Magistrate to entertain an application and grant reliefs is a conditional jurisdiction. In other words, the Magistrate is clothed with the jurisdiction to grant various reliefs under the Act of 2005, on finding that the woman/aggrieved person, subjected to the acts of domestic violence. That is the **sine qua non** for exercise of jurisdiction by the Magistrate. In other words unless and until, the Magistrate finds that the aggrieved person is subjected to acts of domestic violence by the respondent, the Magistrate would not get any jurisdiction to grant various reliefs. In that view of the matter, the jurisdiction of the learned Magistrate is circumscribed by the provisions of the Act of 2005. It is obvious that the Act of 2005 makes provision for a summary and speedy remedy to the aggrieved person, when it provides under Section 12(4) of the Act of 2005 that the Magistrate shall fix the first date of hearing, which shall not ordinarily be beyond three days from the date of receipt of the application and further Section 12(5) of the Act of 2005 provides that the Magistrate shall endeavour to dispose of*

every application made under Section 12(1), within a period of 60 days from the date of its first hearing. Thus, the Act of 2005 is a special law, governing the subject of domestic violence and the reliefs to be granted thereunder to the aggrieved person.”

iv. The other decisions which Mr. Surve has cited also are on the same issue.

Thus, it is settled legal position that the D.V. Act makes provision for effective protection of the rights of women, who are subjected to the acts of domestic violence, as defined in Section 2(g) read with Section 3 of the Act of 2005. It is clear that the jurisdiction of the Magistrate to entertain an application and grant reliefs is a conditional jurisdiction. In other words, the Magistrate is clothed with the jurisdiction to grant various reliefs under the D.V. Act, on finding that the woman/aggrieved person is subjected to the acts of domestic violence. That is the **sine qua non** for exercise of jurisdiction by the Magistrate. In other words unless and until, the Magistrate finds that the aggrieved person is subjected to acts of domestic violence by the respondent, the Magistrate would not get any jurisdiction to grant various reliefs.

10. Thus, in view of the above settled legal position, it is necessary to find out whether in this particular case, jurisdictional fact that the Respondent has been subjected to domestic violence has been pleaded and established by the Respondent No.1. For the said purpose, it is necessary to examine the contentions which the Respondent-wife has raised in Criminal M.A. No. 1068 of 2011. The relevant part of the Criminal M.A. is as under:

“परंतु सुरुवातीपासूनच सामनेवाला नंबर 1 हा अर्जदारांशी फटकून वागू लागला व सामनेवाली नंबर 2 हीने अर्जदारास लग्न चांगले केले नाही, व सोनेही कमी घातले या कारणावरून लग्न झाल्यानंतर चार दिवसांनीच भांडणे सुरु केली. तसेच लग्न झाल्यानंतर सुमारे 15 दिवस अर्जदाराच्या ओटी भरण्याचा कार्यक्रम केलाच नाही. त्यानंतर अर्जदारांच्या माहेरच्या लोकांनी त्या बाबत विचारणा केली असता सामनेवाला नंबर 1 ची प्रकृती बरी नाही असे कारण सांगुन ओटी भरण्याचा कार्यक्रम पुढे ढकलला आणि लग्नानंतर सुमारे 15 ते 18 दिवसांनी नाईलाजास्तव सामनेवालयाच्या घरच्यांनी अर्जदार हिच्या ओटी भरण्याचा कार्यक्रम केला.

परंतु सामनेवाला क्रमांक 1 ने अर्जदारास कधीही बायकोच्या नात्याने वागविले नाही. किंवा तिला शरीरी सुखही दिले नाही.

परंतु सामनेवाली नंबर 2 हीने अर्जदाराच्या तकरीची दखल न घेता उलट अर्जदाराशीच शुल्लक कारणावरून भांडण काढून

शिवीगाळ करण्यास सुरुवात केली. त्यानंतर अर्जदार हिने तिच्या माहेरच्या लोकांना सदरची बाब सांगितली.

उलट दिवसेंदिवस सामनेवाला नंबर 1 यांनी अर्जदारास सतत फटकून वागणे, अबोला धरणे, तिच्या हातून जेवण न घेणे, त्याची सर्व कामे अर्जदाराकडून न करून घेता फक्त सामनेवाली नंबर 2,4,6 यांचेकडून करून घेणे असा प्रकार करू लागला. आणि सतत अर्जदाराचा सहवास टाळू लागला. त्यामुळे अर्जदारास आणखीनच मानसीक व शारिरीक त्रास होवू लागला. सदरची गोष्ट अर्जदाराने सामनेवाला नंबर 1 ते 6 यांचे निदर्शनास आणून दिली असता, सामनेवाला नंबर 5 याने अर्जदारास अशिलल भाषेत शिवीगाळ केली आणि सामनेवाला नंबर 1 बदल तक्रार केल्यास तिचे बरेवाईट करण्याची धमकी दिली.

तथापि, नवीनच लग्न असल्यामुळे काही अवधी गेल्या नंतर तरी सामनेवाला नंबर च्या स्वभावात सुधारणा घडेल अशी अशा ठेवुन अर्जदार तिच्या नातेवाईकांच्या लग्नाकरीता मे 2011 मध्ये सोलापूर येथे आली आणि पुन्हा लग्न झाल्यानंतर नांदण्यासाठी तिच्या मामा सोबत दिनांक 29.05.2011 रोजी सासरी गेली. परंतु सामनेवाली नंबर 2 ते 6 यांनी अर्जदाराला घरात घेण्यास व नांदविण्यास नकार दिला त्यामुळे नाविलाजास्तव अर्जदाराला माहेरी परत यावे लागले.

अर्जदार नंबर 1 ही मे 2011 पासून सोलापूर येथे राहत आहे. तेव्हापासून सामनेवाला क्रमांक 1 ह्याने तिच्या पोटापाण्याची, कपड्यालत्त्याची, औषधोपचाराची आणि निवा-याची काहीच

सोय केली नाही. अर्जदार ही काहीच कामधंदा करत नसून तशीच तिची शारीरिक व मानसीक स्थिती सुध्दा नाही.”

(Emphasis added)

11. Thus, the Respondent No.1 has approached the D.V. Court with a specific case that the Petitioner since beginning was not treating the Respondent as wife and all along he and other family members were treating her with cruelty. Various instances have been set out in the application. Some of the instances are reproduced hereinabove.

12. The Respondent has filed evidence Affidavit in conformity with the contentions which have been raised in said DV proceedings and she has been cross examined.

13. The crucial aspect is that it is one of the contention of the Respondent that the Petitioner was not keeping physical relationship with her and for that purpose, Doctor's opinion and treatment has been taken. However, the Petitioner has stated that for that purpose only wife is required to go for examination by the Doctor and for that purpose, his examination is not required. The cross-examination is with respect to the examination of the

Respondent by the Doctor. It is the specific contention of the Respondent that the Petitioner refused to get examined from the Doctors. Another aspect of cross-examination, which has been highlighted by Mr. Surve, learned Counsel is that the Respondent No.1 has raised the contention that the family of the Respondent No.1 has been forced to give 25 Tolas gold in the marriage and that the Respondent No.1 in her cross-examination has stated that she is ready to produce the documents regarding the same.

14. The Petitioner has also examined himself. It is his contention that in fact the Respondent is not keeping physical relations with him. In the cross-examination, he has admitted that when the marriage was fixed in the year 2010, writing was executed regarding the articles to be given by the Petitioner to Respondent No.1 and vice versa and the respective relatives and in the cross-examination, he admitted as under:

“सन-2010 ला लग्न ठरले त्यावेळी मध्यस्थी दहा लोकांनी देणेघेणेची यादी तयार केली”

Thus, it is clear that the Petitioner has admitted that when the marriage was fixed, list was prepared *inter alia* regarding

various items to be given at the time of marriage. Thus, it is in effect admitted that in the marriage *inter alia* by the family of wife, some articles were given. The Petitioner has also examined two more witnesses.

15. Perusal of the evidence shows that apart from the contention raised by the Respondent that the Petitioner was refusing physical relationship with her, there are several instances were brought on record which demonstrate that the Petitioner has been subjected to cruelty.

16. In this background of the matter, it is necessary to see the definition of Domestic Violence as defined in Section 2(g) of the D.V. Act which provides that the domestic violence has the same meaning as assigned to it in Section 3. Section 3 defines domestic violence as under :

3. Definition of Domestic Violence -- For the purposes of this Act, any act, omission or commission or conduct of the respondent shall constitute domestic violence in case it—

(a) harms or injures or **endangers the health, safety, life, limb or well-being, whether mental or physical, of the aggrieved person** or tends to do so and includes causing

physical abuse, sexual abuse, **verbal and emotional abuse and economic abuse**; or

(b) harasses, harms, injures or endangers the aggrieved person with a view to coerce her or any other person related to her to meet any unlawful demand for any dowry or other property or valuable security; or

(c) has the effect of threatening the aggrieved person or any person related to her by any conduct mentioned in clause (a) or clause (b); or

(d) otherwise injures or causes harm, whether physical or mental, to the aggrieved person.

Explanation I.—For the purposes of this section,—

(i) “physical abuse” means any act or conduct which is of such a nature as to cause bodily pain, harm, or danger to life, limb, or health or impair the health or development of the aggrieved person and includes assault, criminal intimidation and criminal force;

(ii) “**sexual abuse**” includes any conduct of a sexual nature that abuses, humiliates, degrades or otherwise violates the dignity of woman;

(iii) “**verbal and emotional abuse**” includes—

(a) **insults, ridicule, humiliation, name calling and insults or ridicule specially with regard to not having a child or a male child; and**

(b) repeated threats to cause physical pain to any person in whom the aggrieved person is interested.

(iv) “economic abuse” includes—

(a) **deprivation of all or any economic or financial resources to which the aggrieved person is entitled under any law or custom whether payable under an order of a court or otherwise or which the aggrieved person requires out of necessity including**, but not limited to, household necessities for the aggrieved person and her children, if any, stridhan, property, jointly or separately owned by the aggrieved person, payment of rental related to the shared household and maintenance;

(b) disposal of household effects, any alienation of assets whether movable or immovable, valuables, shares, securities, bonds and the like or other property in which the aggrieved person has an interest or is entitled to use by virtue of the domestic relationship or which may be reasonably required by the aggrieved person or her children or her stridhan or any other property jointly or separately held by the aggrieved person; and

(c) prohibition or restriction to continued access to resources or facilities which the aggrieved person is entitled to use or enjoy by virtue of the domestic relationship including access to the shared household.

Explanation II.—For the purpose of determining whether any act, omission, commission or conduct of the respondent constitutes “domestic violence” under this section, the overall facts and circumstances of the case shall be taken into consideration.”

(Emphasis added)

17. Thus domestic violence *inter alia* mean any act, omission or commission or conduct of the Respondent which shall constitute domestic violence in case it - harms or injures or endangers the health, safety, life, limb or well-being, whether mental or physical, of the aggrieved person or tends to do so and also includes causing physical abuse, sexual abuse, verbal and emotional abuse and economic abuse. Clause (d) of Section 3 widens the scope of domestic violence by providing that “otherwise injures or causes harm, whether physical or mental, to the aggrieved person”. In the explanation 1 to Section 3 physical abuse, sexual abuse, verbal and emotional abuse, economic abuse are explained. Explanation II provides that for the purpose of determining, whether any act, omission, commission or conduct of the respondent constitute “domestic violence” under this Section, the overall facts and circumstances of the case have to be taken into consideration”

18. It is required to be noted that economic abuse includes deprivation of all or any economic or financial resources to which the person aggrieved is under any law or custom whether payable under an order of a court or otherwise or which the aggrieved

person requires out of necessity including, but not limited to household necessities for the aggrieved person. The sexual abuse includes any conduct of a sexual nature that abuses, humiliates, degrades or otherwise violates the dignity of woman.

19. Thus, the contention which the Respondent has raised in the DV Application that the Petitioner is refusing to have physical relations with the Respondent is the sexual abuse and therefore domestic violence as contemplated under Section 3. However for the time-being even if the said allegation is ignored, as it is the contention of the Petitioner that in fact the Respondent No.1 has refused to keep physical relation with the Petitioner, then also the other contention raised in the DV Application to the effect that the Petitioner has failed to provide any maintenance to the Respondent amounts to economic abuse.

20. Thus, various contentions raised in the DV Application and the evidence which has been pleaded in support of the same, clearly shows that it has been pleaded and proved that the Respondent has been subjected to the domestic violence as contemplated under Section 3 of the DV Act.

21. Thus, the jurisdictional fact that the aggrieved person is subjected to the domestic violence is proved. Thus, there is no substance in the contention raised by Mr. Surve, learned Counsel of the Petitioner that the impugned orders are without jurisdiction as the jurisdictional facts are not proved.

22. In view of the said contention of the parties and the evidence on record, it is necessary to consider various findings recorded in the impugned Order. The Trial Court has held that as far as the contention raised by the Respondent No.1 that the Petitioner has refused to keep physical relations with the Respondent and the contention raised by the Petitioner that the Respondent No.1 refused to keep physical relations with him are not established. In this behalf, it is important to note the discussion of the Appellate Court in paragraph Nos.16 and 17, which reads as under:

“16. From the record and proceeding of Cr.M.A. No.1068/2011, it reveals that before the trial Court, the applicant alone deposed on affidavit in support of the application. In defence, the opponent filed affidavit of his deposition and also examined one relative by name Shivling Malsiddhappa Dhutane. In the affidavit of deposition, applicant has reproduced the allegations mentioned in the application. On the contrary the opponent No.1 has

reproduced the allegations made in his say against the applicant. The witness of the opponents namely Shivling Dhutane also supported the opponents and submitted in his affidavit that in the meeting held at the house of opponent on 28.02.2011, the applicant had agreed to have physical relations with the opponent No.1, but subsequently denied the same. He further stated that on 05.06.2011 similar meeting was held at the house of one relative namely Sakhare. In said meeting also, it was decided that an opportunity should be given to the applicant and opponent No.1 to have physical relations, but on 24.06.2011 the applicant again refused to have physical relations with the opponent No.1.

17. Thus, in the evidence of the applicant and opponents, there are allegations and counter allegations against each other. Though the opponents produced certain documents about medical check-up of applicant in the hospital at Aurangabad, those are not duly proved by examining the concerned medical practitioners. As observed by learned trial Court, there is no concrete and reliable evidence on record to show that either applicant or opponent No.1 are incompetent to develop physical relations with each other. The fact remains undisputed that though the applicant is examined through medical practitioners, no such examination of the opponent No.1 is carried out. Under such circumstances, one sided conduct on the part of opponents alleging impotency of the applicant itself appears to be of cruel nature. This fact itself shows domestic violence at the hands of opponents to the applicant. As already observed, the evidence and record & proceeding before the Family Court not being before this Court, the judgment and order directing the applicant to resume cohabitation with the opponents cannot be considered here.”

The above discussion of the learned Appellate Court clearly shows that the learned Appellate Court has held that the Respondent No.1 has been subjected to the domestic violence.

23. In any case, both the Courts have concurrently held that the evidence on record clearly shows that the Petitioner has failed to provide maintenance to the Respondent- wife. Thus, it is clear that both the Courts have held that the Respondent No.1 has been subjected to economic abuse as contemplated under Explanation I(iv), to Section 3 and therefore the same amounts to domestic violence.

24. The contention raised by the learned Counsel for the Petitioner that the learned JMFC should have framed the issue whether the Respondent has been subjected to domestic violence by the Petitioner and therefore in absence of the same, both the impugned Orders are liable to be set aside. In that regard, it is required to be noted that in the application filed under DV Act, the detailed contentions have been raised regarding domestic violence. The said issue is considered by the learned Trial Court as well as the learned Appellate Court. The Petitioner has filed reply to the

said application. Both the parties have led evidence with respect to the said issue concerning domestic violence. The said issue is considered by the learned Trial Court as well as the learned Appellate Court. Accordingly, no prejudice has been caused to the Petitioner. As already noted in the application filed under the DV Act, detailed pleadings are raised about the domestic violence and therefore there is no substance in the contention raised by the learned Counsel for the Petitioner.

25. As far as the contention raised that in view of the decree of restitution of conjugal rights, it has to be held that the Respondent has failed to prove domestic violence, the learned Appellate Court has rightly held on the basis of evidence on record, the learned JMFC has recorded the finding that the Respondent has been subjected to domestic violence. Learned Appellate Court has further held that both the proceedings i.e. DV proceeding and the proceeding seeking restitution of conjugal rights have been decided on the evidence which has been led before the respective Courts.

26. In view of the above observations of the learned Appellate Court, it is relevant to note paragraphs 14 to 17 of the Judgment and Decree dated 28th July 2015 passed by the learned Principal Judge, Family Court, Solapur granting decree of restitution of conjugal rights as under:

“14. Rupa has admitted that she went to her parental house in the month of May 2011 for the marriage of her sister. She states that thereafter the petitioner did not allow her to cohabit with him. Her evidence is corroborated by independent witnesses namely Suhash. He states that there was an attempt to reconcile the matter. He states that he accompanied the respondent to Aurangabad. At that time the petitioner refused to cohabit with respondent.

15 The rest of the pleadings of both the parties is disturbing rather Irresponsible. It is difficult to ascertain whether it was the wish of the parties or wrong legal advise to make such pleadings. Both the parties have leveled allegations and counter allegations regarding personal affair. This itself shows, had there been proper guidance by the elders, medical and legal experts, the most valuable period of their life could have been saved. What was more important than that is to minimize bitterness between the parties. This has resulted Into delay in deciding the case and to save the valuable time of the parties.

16 The evidence of Vijay has remained unchallenged to the extent of concealment of their physical relations from family members. In cross it

was suggested to him that in May 2011 the respondent came to his house alongwith Suhash. Even thereafter on 17.02.2013 such an attempt was made. It was further suggested to him that he being religious, is not interested to cohabit with respondent. Even it was further suggested to him that as he was inclined towards religious and spiritual activities, he never wanted to marry and got married only under pressure.

17 The cross of Rupa is important. She admits that she has studied up to B.Com I. She admits that the petitioner is having joint family. She admits that on 23.04.20211 she came to Solapur for her sister's marriage. She specifically states that she is not willing to cohabit with petitioner.”

27. The above discussion also shows that evidence of cruelty by Petitioner inflicted on the Respondent No.1 is led even before the Family Court. It is also important to note that Family Court Appeal has already been filed challenging said Judgment and Decree dated 28th July 2015 and therefore, the same is subjudice. Thus, the said factor is not relevant. Thus, there is no substance even in the said contention.

28. Accordingly, no ground is raised to interfere in the impugned Orders under the jurisdiction of this Court under Article 227 of the

Constitution of India. The Writ Petition is dismissed, however, with no order as to costs.

29. At this stage, learned Counsel for the Respondent No.1 submitted that there are arrear to the tune of Rs.8,00,000/-. Mr. Surve, learned Counsel for the Petitioner states that the learned Single Judge has granted stay on payment of Rs.75,000/-, however, perusal of said Order granting stay, dated 23rd November 2017 shows that the stay has been granted only to the effect that no coercive action be taken as regards recovery of balance amount of arrears and the said Order has been granted till next date. Thereafter, the said order has been continued. By Order dated 6th March 2018, the present Writ Petition has been admitted, however, no interim relief has been granted. However, by further Order dated 7th August 2024, a learned Single Judge has recorded that the parties are exploring amicable settlement and recorded statement of learned Counsel for the Petitioner that *ad hoc* amount of Rs.5,000/- per month would be paid.

30. Mr. Surve, learned Counsel for the Petitioner disputes that the quantum of arrears is Rs.8,00,000/- however, states that there

are arrears. Accordingly, the Petitioner is directed to pay the arrears within a period of three months from today and also pay said amount of Rs.7,500/- per month on or before 10th day of each succeeding month.

31. Thus, the Writ Petition is dismissed. The Petitioner to comply with the above directions regarding payment of maintenance.

32. In view of the dismissal of the Writ Petition, nothing survives in the Writ Petition and the same is also dismissed.

(MADHAV J. JAMDAR, J.)