

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO.4000 OF 2024

Krishna Manglani alias Shweta Lalwani,
Age-33 years, Occ-Unemployed,
Through her next friend/father
Jagdish Lalwani, Age-59 years,
Residing at B-602, Tridev Apartment,
Bhakti Marg, Mulund (W),
Mumbai 400 080.

...Petitioner

Versus

1. Sagar Ishwar Manglani,
Age-35 years, Occ-Service,
Permanent Address in India;
C-2048, Ocean Park Kalvibid
Bhavnagar, Gujarat-364001.

2. Ishwar Manglani,
Age-69 years,
R/at: C-2048, Ocean Park, Kalvibid
Bhavnagar, Gujarat-364001.

3. Dhanwanti Ishwar Manglani,
Age : 68 years,
R/at: C-2048, Ocean Park, Kalvibid
Bhavnagar, Gujarat-364001.

4. State of Maharashtra

...Respondents

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- Mr. Sarah Kapadia a/w Ms. Ankita Pachouri, Ms. Anoushka Thangkhiew i/b. Vesta Legal, for the Petitioner.
- Mr. Akshay R. Kapadia, for the Respondents.
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CORAM : MANJUSHA DESHPANDE, J.

RESERVED ON : 05th DECEMBER 2025
PRONOUNCED ON : 19th DECEMBER 2025

JUDGMENT :

1. **Rule.** Rule made returnable forthwith and heard finally with the consent of the parties.
2. The present Writ Petition is filed by an unfortunate woman through her father, fighting for her survival, due to neglect and economic harassment meted by the Respondent-Husband, by refusing to provide her with financial assistance, which is indispensable due to her near vegetative state. The Petition is challenging the order dated 11.07.2024 passed by the learned Additional Sessions Judge, Gr. Mumbai, Mazgaon, (hereinafter referred to as, '**Sessions Court**') in Criminal Appeal No.498 of 2022, thereby reducing the amount of maintenance granted to the Petitioner by the learned Metropolitan Magistrate, 27th Court, Mumbai, (hereinafter referred to as '**MM Court**') from Rs. 1,20,000/- to a paltry amount of Rs. 50,000/- p.m. towards the maintenance of the Petitioner.

3. The factual background giving rise to the present Writ Petition can be summarized as under :

(i) The marriage between the Petitioner and Respondent No.1 was solemnized on 20.01.2016 at Mumbai as per Hindu Rites and Customs.

(ii) The Petitioner was employed in Mumbai at the time of her marriage, while Respondent No.1, who is a Chartered Accountant (CA) by profession, was residing in the UK. Since Respondent No.1 was residing and employed in UK, the parents of the Petitioner voluntarily contributed Rs.30 lakhs to assist her with her initial matrimonial arrangements and her relocation to the UK after marriage.

(iii) It is alleged that, Respondent Nos.2 and 3 have expressed their dissatisfaction with the Petitioner's ability to perform her household responsibilities, while she was engaged in her professional commitments. The conduct of Respondent Nos.2 and 3 created emotional strain and pressure on the Petitioner.

(iv) When she relocated to the UK on 10.05.2016, to join Respondent No. 1 at his residence in Swindon, Wiltshire, after her

arrival, disagreements arose between the Petitioner and Respondent No. 1, regarding the contribution towards the household expenses as well as the distribution of domestic responsibilities. These disagreements gradually escalated into regular verbal exchanges. Due to her initial unemployment, Respondent No. 1 expressed his dissatisfaction and considered her as a financial burden to him.

(v) On 06.02.2017, the Petitioner suddenly suffered a catastrophic neurological medical emergency. All of a sudden, she had a collapse at home and was immediately required to be moved to the Great Western Hospital, Swindon. She was diagnosed with a Posterior Fossa Haemorrhage Secondary to an Arteriovenous Malformation Rupture leading to Vasospasm and Quadriplegia. Due to her critical condition, she was required to be transferred to St. George's Hospital, London, where she underwent neurosurgery and remained in the Intensive Care Unit for extended postoperative care.

(vi) Upon receiving the intimation about the critical condition of the Petitioner, her father travelled to the UK and remained by her side during the critical months that followed. After prolonged

ventilator support and an unstable condition for several days, the doctors anticipated that it would require a prolonged phase of rehabilitation for the Petitioner, involving physiotherapy, occupational therapy and speech therapy.

(vii) The Petitioner was thereafter transferred to the Royal Hospital for Neuro Disability at Putney, London, for her rehabilitation. The Petitioner required complete assistance for eating, toileting, and all her movements and communication.

4. Since the doctors opined that, the chances of recovery of the Petitioner were bleak and her vegetative state was likely to remain for a prolonged period, the father of the Petitioner decided to return to India and accordingly, he brought the Petitioner back to India under medical supervision on 13.01.2018. Since then, she has been residing with her parents.

5. Since her return to India, the Petitioner has been medically dependent and requires round-the-clock nursing assistance together with regular physiotherapy, speech therapy and neurological follow-ups. Her recurring monthly expenses range between 1 lakh to 2 lakh p.m. Though Respondent No. 1 had

assured the father of the Petitioner that, he would transfer Rs. 1,50,000/- p.m. to support the treatment of the Petitioner after her return to India, he has not honoured the assurance given by him, except for a few sporadic payments made by him, he did not contribute towards her expenses. He neither arranged for her long-term rehabilitation in India as well in the UK, nor did he visit her after March 2018.

6. It is on this background that the Petitioner was constrained to file proceedings under Section 12 of the Domestic Violence Act, 2005 (**DV Act**) before the MM Court. In her Application, she has invoked orders of protection, residence, monetary relief for ongoing medical care as well as compensation quantified at Rs. 3 crore under Section 22 of the DV Act. It is submitted that, the Petitioner has demonstrated before the learned Magistrate, the manner in which she suffered severe emotional and economic abuse and her abandonment by Respondent No.1, during her Medical emergency and also after her return to India. The Petitioner has sufficiently demonstrated before the Court that, Respondent No.1 has failed to provide financial support to the Petitioner commensurating with her needs by placing on record the

invoices of physiotherapy, nursing charges, fees for neurological consultation, cost of assistive equipments, cost of transport, etc. in support of her claim for maintenance.

7. The claim of the Petitioner was opposed by Respondent No.1 contending that, the parents of the Petitioner had, against his wishes, moved the Petitioner to India. Her treatment as well as rehabilitative expenses were covered by the Medical Insurance available to him in the UK. In spite of the best available treatment in the UK, which was covered by insurance, the parents of the Petitioner discharged the Petitioner from the hospital against the advice of the doctors and moved her to India. While doing so, the father of Respondent No. 1 took upon himself the responsibility of the Petitioner without burdening him in any manner.

8. It is his further defence that his employment status had undergone a substantial change, he had also returned from the UK, and was no longer earning any income comparable to his earlier salary in the UK. He placed on record an affidavit of his earnings, where he disclosed a significantly lower income. He claimed that, his finances had been reduced considerably, therefore, he was not able to meet the quantum of maintenance claimed by the

Petitioner.

9. The learned Advocate submits that, after considering the rival submissions, the learned Magistrate passed a detailed order on 30.07.2022, recording the medical condition and the requirement of the quantum of expenditure for the treatment of the Petitioner and, taking into account the salary record of Respondent No. 1 during his tenure in the UK, passed an order granting interim maintenance of Rs. 1,20,000/- p.m. towards the maintenance of the Petitioner and also directed him to pay the arrears of maintenance for 36 months preceding the date of the passing of the order, to be cleared by paying an additional 1 lakh per month till the entire arrears of Rs. 43,20,000/- were cleared.

10. Being aggrieved by the order granting maintenance to the Petitioner, Respondent No. 1 has filed Appeal No. 498 of 2022 before the Sessions Court, Greater Mumbai. While filing the criminal appeal, Respondent No. 1 has also preferred an application for stay in Miscellaneous Application No. 1792 of 2022 seeking suspension of monetary direction issued by the MM Court. This application for stay was heard by the Sessions Court at a preliminary stage and, vide order dated 18.12.2022, directed the

Respondent to pay an ad-hoc reduced amount of Rs. 50,000/- p.m. during the pendency of the appeal. This order passed by the Sessions Court was challenged by the Petitioner in this Court. This Court in Criminal Writ Petition No. 3444 of 2024 set aside the order of the Sessions Court dated 08.11.2023 and directed the Sessions Court to decide the Criminal Appeal expeditiously, considering the medical condition of the Petitioner, which required uninterrupted financial support.

11. Upon remand of the matter, the appeal of Respondent No. 1 was finally decided by the Sessions Court by reducing the financial support of the Petitioner from Rs. 1,20,000/- to Rs. 50,000/- p.m., further directing the Respondent No.1 to pay the arrears in instalments at the rate of Rs. 50,000/- p.m. instead of Rs. 1 lakh p.m. as directed by the MM Court. This reduction in the amount is the subject matter of challenge before this Court.

12. The learned Advocate for the Petitioner has taken me through the medical records of the Petitioner right from the UK to her present medical condition in India, to demonstrate that the Petitioner requires continuous monitoring, care and assistance for her day-to-day survival. It is submitted that the neurological

impairment of the Petitioner is of a permanent nature, which is likely to continue in the near future, yet the Sessions Court has reduced the amount on the assumption that the Petitioner is not undergoing 'extensive treatment', which is in fact contrary to her medical record. It is submitted that, though the Sessions Court has proceeded on the assumption that no treatment is necessary, the fact remains that the neurological rehabilitation of the Petitioner requires physiotherapy, full-time nursing assistance and regular consultation with her doctors. Therefore, merely because no medicines are administered to the Petitioner, it cannot be said that no expenses are required to be incurred for her treatment.

13. The learned Advocate further submits that the Sessions Court has committed a grave error in treating the voluntary support extended by the father of the Petitioner, as a ground to reduce the financial responsibility of Respondent No.1, which, in fact, is a statutory obligation, more particularly under Section 20 of the DV Act, which casts a responsibility solely upon the husband to provide monetary relief to meet the expenses of his wife. The learned Advocate has relied upon *Rajnesh V/s. Neha & Anr.*¹, more particularly, on Para Nos. 90.4 and 93, which reads thus :

¹ (2021) 2 SCC 324

“90.4. An able-bodied husband must be presumed to be capable of earning sufficient money to maintain his wife and children, and cannot contend that he is not in a position to earn sufficiently to maintain his family, as held by the Delhi High Court in Chander Parkash v. Shila Rani [Chander Parkash v. Shila Rani, 1968 SCC OnLine Del 52 : AIR 1968 Del 174] . The onus is on the husband to establish with necessary material that there are sufficient grounds to show that he is unable to maintain the family, and discharge his legal obligations for reasons beyond his control. If the husband does not disclose the exact amount of his income, an adverse inference may be drawn by the court.

93. Serious disability or ill health of a spouse, child/children from the marriage/dependent relative who require constant care and recurrent expenditure, would also be a relevant consideration while quantifying maintenance.”

14. It is, therefore, submitted that the order passed by the Sessions Court, reducing the maintenance amount, admissible to the Petitioner is required to be quashed by restoring the order passed by the MM Court.

15. Responding to the submissions of the learned Advocate for the Petitioner, Mr. Akshay Kapadia, learned Advocate for Respondent No.1 submits that the Judge, Sessions Court, has considered the significant change in his financial status after returning to India and that he is not earning anywhere close to the figures reflected in his earlier salary documents from the UK.

Accordingly, taking a realistic approach, the Sessions Court has passed an order reducing the maintenance proportionate to his income, rather than speculating on his earning capacity. He further submits that, in fact, the father of the Petitioner had taken over the responsibility of the Petitioner while moving over to India, accordingly, the essential needs of the Petitioner are being taken care of by her father. Therefore, considering the voluntary assistance available to the Petitioner, such assistance needs to be considered while determining the interim maintenance.

16. During the course of arguments, it is submitted that, after the illness of the Petitioner, the mental state of Respondent No.1 was unstable; therefore, he was not able to perform well in his job in the UK. He was, therefore, constrained to quit his job in the UK and move back to India to live with his aged parents by seeking employment at Bhavnagar, Gujarat, which is his native place. According to him, the Petitioner has made an exaggerated claim, and the father of the Petitioner is trying to exploit the situation due to the illness of the Petitioner to extract money from him.

17. It is not disputed that, the Petitioner is in a vegetative state, and the doctors have not prescribed medication for her. According

to him, after coming back to India, the Petitioner was required to be hospitalized only once. Therefore, the expenses shown towards hospitalization, doctors' visits, emergency charges for hospitalization, electricity, and ancillary expenses of Rs. 20,000/- are nothing but non-existent expenses, which are claimed from him. He further submits that, now that he has moved back to India and is residing at Bhavnagar, he is ready to take care of the Petitioner if she shifts to Bhavnagar. He has never refused to take care of the Petitioner if she shifts to Bhavnagar to reside with him.

Therefore, considering his financial incapacity and the inflated claims made by the Petitioner, the Judge, Sessions Court, has taken a very balanced view and has reduced the amount of maintenance to Rs. 50,000/- p.m., which is sufficient to take care of the needs of the Petitioner. As such, the order passed by the Sessions Court, Greater Mumbai, does not deserve any interference, and the present Writ Petition deserves to be dismissed.

18. I have heard the parties and, with their assistance, perused the documents placed on record. After carefully considering the rival submissions, the issue involved in the present Writ Petition is

limited only to the extent of modification of the order passed by the Sessions Court, Greater Mumbai, reducing the amount of maintenance and the resultant reduction of arrears admissible to the Petitioner. Whether such reduction is justifiable in the given circumstances and the available record is the seminal question that is required to be answered.

19. Admittedly, the orders have been passed on the Interim Application filed under Section 23 of the PWDVA Act, pending the adjudication of the application filed by the Petitioner under Section 12 of the said Act. Therefore, once having satisfied that there is domestic violence on the basis of prima facie material available on record, the powers are conferred on the Magistrate to pass appropriate order, as provided under Section 18, 19, 20, 21, 22, and 23 of the PWDV Act.

20. In the present case, from the averments made in the Application, the Petitioner has proved that there was a prima facie case of Domestic Violence by Respondent No.1. Specific averments are made by the Petitioner that the Respondent No.1 has neglected and failed to provide financial support in her present condition of near-vegetative state. It is a settled position of law that it is the

responsibility of an able-bodied husband to maintain his wife. In the present case, the Petitioner is suffering from irreversible and severe neurological disability and has no independent source of income. Her incapacity is to such an extent that she is incapable of communicating, except through her next friend, in the present case her father. It is trite law that, it is the responsibility of the husband to maintain his wife. It would be apposite to refer to Para Nos.79 and 80 of the judgment of the Hon'ble Supreme Court in the case of *Rajnesh (supra)*, which reads thus :

“79. In Manish Jain v. Akanksha Jain [Manish Jain v. Akanksha Jain, (2017) 15 SCC 801 : (2018) 2 SCC (Civ) 712] this Court held that the financial position of the parents of the applicant wife, would not be material while determining the quantum of maintenance. An order of interim maintenance is conditional on the circumstance that the wife or husband who makes a claim has no independent income, sufficient for her or his support. It is no answer to a claim of maintenance that the wife is educated and could support herself. The court must take into consideration the status of the parties and the capacity of the spouse to pay for her or his support. Maintenance is dependent upon factual situations; the court should mould the claim for maintenance based on various factors brought before it.

80. On the other hand, the financial capacity of the husband, his actual income, reasonable expenses for his own maintenance, and dependent family members whom he is obliged to maintain under the law, liabilities if any, would be required to be taken into consideration, to arrive at the appropriate quantum of maintenance to be paid. The court must have due regard to the standard of living of the husband, as well as the spiralling inflation rates and high costs of living. The plea of the husband that he does not

possess any source of income ipso facto does not absolve him of his moral duty to maintain his wife if he is able-bodied and has educational qualifications.”

21. Having regard to the present state of the Petitioner, the learned Magistrate has taken into account the qualifications and the income of the Respondent while working in the UK to draw an inference about the admissibility of maintenance to the Petitioner. Although the Petitioner has claimed an amount of Rs. 2,08,000/- p.m., in proportion to the earning capacity of the Respondent, viz., Rs. 5 lakh p.m., an order directing Rs. 1,20,000/- p.m. towards maintenance of the Petitioner has been passed by the Metropolitan Magistrate, Mulund, Mumbai. Even though the Respondent has denied the income and claimed that his income is nil, he has not believed it. Rightly so, considering his qualifications and the income drawn by him while residing in the UK, it is not believable that his income would be nil after relocating to India.

22. Reliance is placed on a document, namely, Nationwide Employee Services, Swindon, to demonstrate that the Respondent was drawing a salary of £34,953 p.a. Comparing the two statements-one of the Respondent showing his income as nil, while

the other, a document produced on record viz., the Nationwide Employee Services, Swindon, showing the salary of the Respondent at the rate of £34,953 p.a., the learned Magistrate has granted a proportionate amount towards the interim maintenance.

23. In the Appeal filed by the Respondent, it was contended that, the father of the Respondent had taken the full responsibility, including finances and costs related to the care fo the Petitioner and after returning to India, because of greed of money, a false complaint is filed by the Petitioner under the provisions of the DV Act. It was further contended that, the father of the Respondent has established business since last 35 years, therefore, he is in a much better financial position than the Respondent. He has again agitated the same ground about his unemployment after relocating to India. The learned Additional Sessions Judge, has admitted that assuming that, the Petitioner was brought to India against the medical advice in the UK, it cannot be said that, the father of the Petitioner had any ill-motive to do so. It cannot absolve the responsibility of the Respondent No.1 of maintaining the Petitioner being his legally weded wife. It is also recorded that, it does not appear that, after bringing the Petitioner to India, the Respondent

No.1 has incurred any amount on the treatment of the Petitioner probably because the father of the Petitioner has taken the responsibility. On this background, while passing order on the entitlement of amount of interim maintenance, it is recorded that, though the learned Magistrate has relied on the salary of £34,945/- p.a., but while granting the proportionate maintenance, the learned Magistrate has not taken into account the tax implications of at least 40% of the earnings, in the UK. Though he admits that, the Respondent No.1 has not placed on record any such proof of tax deduction, yet, on his own, on the basis of google search, the learned Sessions Judge, has arrived at a conclusion that, the Respondent No.1 must be receiving monthly salary of Rs. 2,12,000/- applying the exchange rate of Rs. 91 INR existing in the year 2016. Having regard to the personal expenses of Respondent No.1, the learned Additional Sessions Judge, has arrived at a figure of Rs.50,000/- p.m. as a reasonable amount for medical expenses of the Petitioner.

24. The learned Additional Sessions Judge, on his own has, arrived at a conclusion that, the claim of Rs.2,08,000/- p.m. as claimed by the Petitioner appears to be excessive and inflated

assuming that, the Petitioner was in the need of only nursing and physiotherapy. Therefore, it was not necessary to grant Rs.1,20,000/- p.m., therefore, the Trial Court has committed an error while assessing amount in correct manner. This assumption of the learned Additional Sessions Judge, that the Petitioner was not presently undergoing 'extensive treatment', and therefore, no expenses are required to be incurred, is erroneous and contrary to the record, unsupported by any evidence. The above observation appears to be made by the learned Additional Sessions Judge by harping on the belief that, treatment means some aggressive action taken by the medicos like the surgery or the hospitalization. He has failed to appreciate that, the Petitioner is undergoing neurological rehabilitation, which requires continuous therapy, nursing and medical support. Therefore, the interpretation of the learned Additional Sessions Judge, it totally perverse and contrary to the record, which can be gathered from the report submitted by the Para Legal Volunteers (hereinafter referred to as '**PLV**') pursuant to the order by this Court.

25. At the outset, it would be necessary to consider whether the amount granted by the Trial Court is inflated. This Court vide order

dated 25.08.2025, considering the peculiar facts and circumstances of this case, has been pleased to appoint to PLV to visit the Petitioner and submit a report to this Court. Accordingly, a report has been submitted by the PLV dated 11.09.2025. The report contains details of the background information of the Petitioner and the observations made by the PLV. According to the observation made by the PLV, the Petitioner was lying in the bed in completely dependent state, with no verbal communication or even through gestures. She is unable to consume food orally. A Percutaneous Endoscopic Gastrotomy (hereinafter referred to as 'PEG') tube is inserted in her abdomen. She is given liquid food and water via injection through the PEG tube. Feeding is conducted every two hours, which is prepared in a liquid form. She is entirely dependent on caregivers for personal and medical care. Two caregivers are employed for day time care and another for the night. She undergoes regular physiotherapy at home as per the ongoing care plan. She is diaper dependent. In the conclusion, it is observed that, while physiotherapy is being provided prognosis for recovery remains extremely limited.

In view of the aforementioned report, it is very much

apparent that, the Petitioner is completely dependent for her needs, which is being taken care of by the caregivers round-the-clock. It is also necessary to appreciate that, since the food is administered through the PEG tube she must be in need of medical supervision and assistance at regular intervals as there are fair chances of getting infected. On this background, the amount of Rs.1,20,000/- awarded by the Trial Court appears to be a reasonable amount.

26. Admittedly, the amount of maintenance has been granted by the Trial Court based on the document produced by the Petitioner reflecting his annual salary. Since the Respondent has failed to produce on record the details of his income, such as the bank statements, ITRs and other documents, in spite of granting sufficient opportunity, the Respondent has not produced the documents required as mandated by the judgment of the Hon'ble Supreme Court in the case of *Rajnish (supra)* as a result, the Trial Court has passed an order drawing inference on the basis of his qualifications, his tenure of residence in the UK and the proof in support of his income reflected in the Nationwide Employee Services, Swindon, which is not disputed.

27. Though the Respondent has claimed that, there was change

in his income due to relocating to India, however he has not produced any documents about his relocation with resignation or termination letter. He has merely produced a communication showing that, he has been offered employment in India, which is not supported by proof. Hence, in view of the foregoing observations, the order of the Sessions Court reducing the amount of maintenance from Rs.1,20,000/- p.m. to Rs.50,000/-, based on erroneous findings warrants interference by this Court.

28. The order under challenge being outcome of interim maintenance granted to the Petitioner is only a temporary measure, the monetary relief has been granted pending the substantive Application filed under Section 12 of the DV Act. In view of the circumstances and the observation made hereinabove, it would in the interest of justice to restore the order passed by the Trial Court by setting aside the order passed by the learned Additional Sessions Judge, Gr. Mumbai, Mazgaon, in Criminal Appeal No.498 of 2022. In the result, the Writ Petition is allowed in the following terms :

(1) The order dated 11.07.2024, passed by the learned Additional Sessions Court, Gr. Mumbai, Mazgaon, in Criminal Appeal No.498 of 2022 is quashed and set aside. Consequently, the

the order dated 30.07.2022, passed by the Metropolitan Magistrate, 27th Court, Mulund, Mumbai, in CC No.81/DV/2019, is restored.

(2) There shall be no order as to cost.

29. Rule is made absolute in the above terms.

(MANJUSHA DESHPANDE, J.)