

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL REVISION APPLICATION NO. 620 OF 2024

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|----|-------------------------------------|---|---------------|
| 1] | Dintu Rajan, | } | |
| | Age 39 years, Occu.- Service; | } | |
| 2] | Rajan Velayuddhan, | } | |
| | Age 67 years, Occu. - Retired; | } | |
| 3] | Vanaja Rajan, | } | |
| | Aged 62 years, Occu. - Housewife; | } | |
| 4] | Rintu Rajan, | } | |
| | Age 36 years, Occu. - Service, | } | |
| | All residing at Poovathingal House, | } | ...Applicants |
| | Pallipuram Village, Kodannur, | } | |
| | PO. Thrissur, Kerala – 680 563. | } | |
| 5] | Vanitha Murali, | } | |
| | Aged 59 years, Occ. - Housewife; | } | |
| 6] | Murali, | } | |
| | Aged 65 years, Occu. - Service, | } | |
| | Nos. 5 and 6 Residing at | } | |
| | Chalakuddi, Thrissur, Kerala | } | |

Versus

- | | | | |
|----|---------------------------------|---|---------------|
| 1] | Smt. Anu Dintu @ Anu Raghavan, | } | |
| | Aged 35 years, Occu. Service, | } | |
| | Residing at Flat No. 105, | } | ..Respondents |
| | B – Wing, Royal Garden, | } | |
| | Near Artia Mall, Dr. A.B. Road, | } | |
| | Worli, Mumbai 400 018. | } | |
| 2] | The State of Maharashtra | | |

Mr. P.O. Varghes and Balakrishnan i/b. Mr. Ganesh Bujbal, advocate
for the Applicants.

Mr. Mohan Pillai i/b. Mrinal Pillai, advocate for the Respondent.

Dr. Dhanlakshmi S. Krishnaiyer, APP for Respondent No.2–State.

CORAM: MANJUSHA DESHPANDE, J.

RESERVED ON : 05 DECEMBER 2025.

PRONOUNCED ON : 18 DECEMBER 2025.

JUDGEMENT:-

1. Rule. Rule made returnable forthwith and heard finally with the consent of the parties.
2. The Applicants are assailing the order dated 06.02.2023 passed by the Metropolitan Magistrate(M. M. Court), 62 Court Dadar, Mumbai, in Interim Application CC No.62000060/DV/2015 filed by the Respondent No.1 and the order dated 06.09.2024 passed by the Sessions Court, Greater Mumbai, Mazgaon, in DV Appeal No.144 of 2023.
3. This is a second round of litigation between the parties. In the earlier round, the Interim Application in the D.V. Complaint filed by the Respondent No.1 was decided by the learned Magistrate on 06.08.2016, directing the Applicant No.1 to return the Stridhan and the car, given to him in the marriage to the Respondent No.1, within 30 days, from the order dated 06.08.2016. This order was subject matter of challenge in Criminal Appeal No.719 of 2016.
4. The Sessions Court, in Criminal Appeal no. 719 of 2016, has dismissed the Appeal and confirmed the order of the Magistrate by order dated 04.09.2017. As a result, the order dated 04.09.2017, was challenged before this Court, by the Applicant No.1. This Court by order dated 17.10.2022 has remanded the matter to the M. M. Court, by directing the respective parties to submit proof about quantity of articles of Stridhan in their possession, and about the present condition of the car. The learned Magistrate was

directed to decide the Application and pass appropriate orders, upon furnishing of the proof by the respective parties.

5. After remand of the matter by this Court, the Interim Application filed by the Respondent No.1 dated 22.02.2015, was decided by the M. M. Court, Mumbai, *vide* order dated 06.02.2023, thereby partly allowing the Application to the extent of return of gold ornaments referred in Schedule-C of the order and also directed return of Ford EcoSport Car to the Respondent No.1. In addition to that the Applicant No.1 herein was restrained from disposing of the matrimonial house, till the conclusion of main Application. Rs.10,000/- has been granted towards the cost of Application and rest of the prayers made in the Application have been rejected. This order was yet again challenged in Miscellaneous Appeal No.144 of 2023, before the Sessions Court, Greater Mumbai, at Mazgaon.

6. During the pendency of Criminal Appeal, Criminal Miscellaneous Application No. 494 of 2023 was allowed on 25.09.2023 granting stay to the operation and execution of order dated 06.02.2023, passed by the M. M. Court, Mumbai. Eventually Criminal Appeal No. 144 of 2023 has been decided *vide* order dated 06.09.2024, confirming the order passed by the M. M. Court, Mumbai and dismissing the Criminal Appeal filed by the Applicants herein. On this background, the Applicants have approached this Court challenging both the orders in the present Criminal Revision Application.

7. The brief facts of the case are, that the Applicant No.1 and the Respondent No.1 were married on 04.09.2014 at Kerala. After

marriage, the Respondent No.1 resided at her matrimonial home up to 20.09.2014, and, thereafter, she had returned to her job at United States of America (USA). It is alleged by her that during her short stay at her matrimonial house, she was subjected to mental torture and physical cruelty. It is further alleged, that the Applicants have retained her Stridhan viz. Gold ornaments and car etc. It is her contention that the Applicant No.1 is earning Rs.20 lakhs per annum. When the Application was filed, the Respondent No.1 was residing in USA for her job. Her parents were residing in Government Quarters at Mumbai. But, when the Interim Application was filed, her father was retired and was required to vacate the official quarters. On this background, it was her prayer that since she has no place to reside either in Mumbai or in Kerala, separate accommodation be ordered.

8. The Applicant No.1 had also filed Divorce proceedings against the Respondent No.1 on the ground of cruelty. It is alleged by the Applicant no.1 that conduct of Respondent No.1 towards him has been indifferent since the first day of their marriage. She avoided him all the times and has also avoided physical relationship with him. Their marriage was not consummated at all. Therefore, he was constrained to file the Divorce Petition. He has also denied that he is earning Rs.20 lakhs per annum, according to him, he was earning only Rs.35,000/ per month as compared to income of Rs.5 lakhs per month earned by the Respondent No.1.

9. So far as the Stridhan is concerned, the Applicant No.1 has denied the possession of gold ornaments of Respondent No.1. It is contended that she had given her Stridhan and all her ornaments

in the custody of her mother. As far as the car is concerned, it was admitted that he is in possession of it, and he is also ready to return it. The allegations of domestic violence have been totally denied.

10. The learned advocate for the Applicants submits that, as per the directions given by this Court, the Applicants and the Respondent No.1 had filed documents of proof in support of the said articles and ornaments given to the Respondent No.1 during the marriage ceremony. However, the list produced by the Applicant No.1 was not at all considered by the learned Magistrate.

11. He further contends that, in the Divorce proceedings filed by the husband before the Family Court, Thrissur, Kerala, in OP No.1902 of 2014, there was an order appointing Court Commissioner for preparing the inventory of articles contained in the locker of the Applicant No.3. When the Court Commissioner visited the locker, it was found that there was one maroon box which contained 2 big bangles, 8 single bangle, 1 chain, 4 studs and 1 pair of rings. There was, one more box of Aluminum which could not be opened due to unavailability of the key of the lock, on the box. Apart from that there was nothing in the Bank Locker of the Applicant no. 3. The Stridhan amounting to 250 sovereigns of gold as alleged by the respondent no.1 was not found in the locker of Applicant No.3. Hence, there was no substance in the allegation made by the respondent no.1.

12. It is further contended that, before passing the order under Section 23 of the DV Act, or proceeding in the Application under Section 12 of the DV Act, there was no domestic violence report

submitted by the Protection Officer or by the service provider, as contemplated under Section 12(1) of DV Act. Similarly, there was no proof of handing over Stridhan to Applicant No.3, which she had allegedly kept in the locker. On this background in absence of any evidence, the learned Metropolitan Magistrate should not have proceeded to pass the order directing to hand over the ornaments/Stridhan to the Respondent No.1.

13. According to Mr. Varghes, the pre requisite for entertaining a complaint under the Domestic Violence Act, is that there should be a “shared household”, and commission of “Domestic Violence”. In the present case, the Respondent No.1 has hardly resided for 15 days with the Applicants, therefore, there was no possibility of commission of domestic violence within such a short duration. Even during the 15 days she has not completely stayed with the in – laws, for few a days she resided in her maternal house as well and for a few days at Mumbai with the Applicant No.1. Therefore, the Respondent No.1 cannot be said to have resided in the “shared household” with the Applicants.

14. In view of the non-compliance of necessary condition for entertaining Application under Section 23 of the DV Act, the Learned Judge, M. M. Court, Mumbai, has committed an error in entertaining the Application filed by the Respondent No.1.

15. As regards, return of the car, namely, Ford EcoSport is concerned, the Applicants have already shown their willingness to return the car. It is, therefore, submitted that both the Courts have committed an error, by directing the Applicant Nos. 1 to 3 to return the Stridhan to the Respondent No.1, without there being

necessary compliance, as contemplated under the provisions of the DV Act.

16. Per contra, the Learned Advocate for the Respondent No.1 has vehemently opposed the prayers made by the Applicants in support of the orders impugned in the present Criminal Revision Application. It is submitted that pursuant to the order dated 17.10.2022, passed by this Court, an opportunity was given to both the parties to submit the proof about possession of the quantity and number of articles of “Stridhan” and about the existing condition of the car. Accordingly, the Respondent No.1 had submitted a list of the gold ornaments with the wedding photographs of the Respondent No.1, wearing the gold jewellery, during the marriage ceremony. The list of jewellery was supported by the invoice of jewelers, from whom the ornaments have been purchased.

17. The Respondent No.1 has also filed affidavit of Mr. Vinodan Challipat, maternal uncle of the Respondent No.1, who in his affidavit has categorically stated about the handing over of the gold jewellery, adorned by the Respondent No.1 during the marriage ceremony after packing it and handing it over to the Respondent No. 1 on 5.09.2014 in the presence of mother of the Respondent No.1 and one Mr. Baburajan. Thus, according to him, the Respondent No.1 has produced sufficient proof in support of her claim about handing over the “Stridhan” to the Applicant No. 1; On the basis of which, the order has been passed by the M. M. Court, Mumbai, after verifying, the receipts of the gold ornaments.

18. While rebutting the contention of the Applicants about the report of Court Commissioner, it is argued that, in answer to the question about the number visits to the locker made by Applicant no. 3 after 19.9.2019, the Court Commissioner's report states that the locker was operated thrice on 19.09.2019, operated at least five to six times thereafter by the Applicant No.3, i.e., the mother of the Applicant No.1. It is, thus, apparent that the report does not in any manner support the case of the Applicants.

19. The learned Advocate has drawn my attention to the order passed by the M. M. Court, Mumbai, wherein three schedules are prepared by the learned Judge. The Schedule-A contains the list of gold ornaments that was already filed on 05.03.2016 alongwith list at Exhibit-22, Schedule-B contains list of gold ornaments filed along with Exhibit -A and, third list is at Schedule-C containing gold ornaments with their invoices. It is submitted that the learned Judge, has undertaken an exercise to go through all the lists and upon verification of the invoices, has directed to hand over all the gold ornaments referred in Exhibit-C, that are supported by the invoices. Therefore, according to him, the M. M. Court, Mumbai, has passed the order of return of Stridhan only of those ornaments, for which invoices are produced by the Respondent No.1. Reliance is also placed by the learned Judge, on the affidavit filed by the maternal uncle in support of handing over the custody of the ornaments to the Applicant No.1.

20. Hence, there is no arbitrariness in the order passed by the M. M. Court, Mumbai. Even while deciding the Appeal, the learned Additional Sessions Judge, has taken into account the admission

given by the Advocate for the Applicant No.1 during the hearing of Anticipatory Bail Application of the Applicant no. 1 in which a statement is made that the Applicant No. 1 is ready to return the Stridhan and the Ford EcoSport car, gifted during the marriage ceremony.

21. The Respondent No.1 relies on the reported judgment of Karnataka High Court in case of *State of Karnataka Vs. Marigowda*¹ in support of the legal position that High Court should not interfere in the concurrent findings of fact recorded by the subordinate courts.

22. It is submitted that, considering the limited scope of the Court to interfere with the order passed by the subordinate Court in its Revisional jurisdiction, the orders passed by both the Courts, which are perfectly legal, valid and justifiable, hence, warrants no interference.

23. I have heard the respective Advocates and perused the Revision Application and the accompanying documents. The Applicants are questioning the validity of the orders passed by the Metropolitan Magistrate, 62nd Court, Dadar, Mumbai, which is confirmed by the Additional Sessions Judge, Greater Mumbai. The order under challenge is on the Application filed by the Respondent No.1 during the pendency proceedings of Domestic Violence. There are various prayers made by the Applicant in her application including return of Stridhan and car gifted to Applicant no.1. In the first round by order dated 01.08.2016, already an order was passed directing to return the Stridhan and the car to

1 AIR 1982 SC 1171

the Respondent No.1 along with the order restraining the Applicant No.1 from alienating or disposing matrimonial house, till the decision of matrimonial proceedings, which was subject matter of the Writ Petition before this Court. Upon remand of the matter, to the M. M. Court, Mumbai, both the parties were granted liberty to produce the proof by way of producing list of articles i.e. the “Stridhan” and also proof of custody of those articles. Accordingly, the Respondent No.1 has produced the list of jewellery items, with their invoices. The M. M. Court, Mumbai, has not relied on the list of gold jewellery produced at Schedule–A, which gave only the details of the ornaments. Even the list of gold ornaments at Schedule–B which gives details of quantity and its weight, has not been accepted. Only the list at Schedule–C with quantity, gross weight supported by invoice of the jewellers, is taken into account. Since all the ornaments mentioned in Schedule-C were supported by the invoices of jewellers, it established the claim of the Respondent No.1 of having purchased the jewellery for her marriage. Even the photographs of respondent no.1 taken during the marriage ceremony adorning all the jewellery have been produced on record. The fact about the gold jewellery being given to the Respondent No.1 is not disputed or denied by the Applicants. They have only disputed the possession of those articles. According to the Applicants, after couple of days of marriage, the Stridhan has been handed over to the mother of the Respondent No.1 by her.

24. Pertinently, the Respondent No.1 has placed on record the affidavit of maternal uncle, Mr. Vinodhan, who was throughout present during the marriage ceremony. He has filed an affidavit on

oath stating that on the next day of the marriage, he was given the responsibility to identify and account all the ornaments, which were given to the respondent no.1. After conducting the said exercise, he along with one Mr. Baburajan has handed over the jewellery to the Applicant No.1. Therefore, relying on the Affidavit, the learned Judge has come to the conclusion that the contention of the Respondent No.1 about the custody of the Stridhan appears to be probable, reasonable and trustworthy, as compared to mere denial of the Applicant No.1.

25. In fact, the probability of custody of Stridhan with the Applicant Nos. 1 and 3 finds support from the statement of the Advocate for the Applicants recorded during the Anticipatory Bail Application filed by the Applicant No.1 before the Sessions Court at Mumbai. In the order dated 3.05.2016, the submission on behalf of the Applicant no. 1 records that, the Applicants is ready to give the Stridhan that is lying with them. Hence, the Respondent No.1 has sufficiently proved the gifting of jewellery during the marriage to her and later handing over its custody to the Applicant No.1.

26. Section 23 of the PWDV Act empowers the Magistrate to pass an order under Sections 18, 19, 20, 21 and 22 in favour of the aggrieved person, if he is satisfied about commission of Domestic Violence. Section 19(8) empowers the Magistrate to direct the respondent to return the Stridhan or any valuable security to which she is entitled. Hence, it is evident that the Magistrate is empowered to pass an order for the return of Stridhan during the pendency of the complaint under the Protection of Women from Domestic Violence Act, 2005.

27. It would be apposite to rely on the observations made by the Hon'ble Supreme Court in the reported judgment in the case of *Maya Gopinathan Vs. Anoop S. B. and Anr.*². In this case, the Hon'ble Supreme Court was also dealing with the case of return of Stridhan. While considering the standard of proof required in matrimonial proceedings, it is held by the Hon'ble Supreme Court that though in Criminal cases standard of proof required of the prosecution, is proof beyond reasonable doubt, but in the matrimonial cases, proof on balance of probabilities is sufficient.

Hence, both the courts below have not committed any error by relying on the proof produced by the Respondent No. 1 in support of her claim for return of Stridhan.

28. The Respondent No.1 has proved the gifting of jewellery in the marriage viz. the Stridhan; the handing over of custody to Applicant No.1 is also supported by the Affidavit of maternal uncle Mr. Vinodan, the visits to the locker by the Applicant No.3 after the marriage ceremony on number of occasions, does not support the case of the Applicants. The order passed by the M. M. Court is very much in consonance with the powers conferred on him under Section 19 under the Domestic Violence Act. The present Criminal Revision Application is filed invoking Section 397 read with 401 of Cr.P.C., this Court is also bound to exercise its power within the limit and scope of power conferred on it by the statute. These powers are exercised only after being satisfied about a well-founded error, if such orders are passed in contravention of any legal provision, or findings recorded without any evidence or

material produced on record ignored while passing the order. I do not find any case made out by the Applicants for interfering with the orders.

29. The limited jurisdiction of this Court while exercising the Revisional jurisdiction has been time and again reiterated in various judicial pronouncement by the High Courts as well as the Hon'ble Supreme Court. In the case of ***Sanjaysinh Ramrao Chavan v. Dattatray Gulabrao Phalke & Ors.***³ the Hon'ble Supreme Court in Paragraph No. 14 has made following observations on the powers of Revisional Courts, which reads thus:

“ 14. In the case before us, the learned Magistrate went through the entire records of the case, not limiting to the report filed by the police and has passed a reasoned order holding that it is not a fit case to take cognizance for the purpose of issuing process to the appellant. Unless the order passed by the Magistrate is perverse or the view taken by the court is wholly unreasonable or there is non-consideration of any relevant material or there is palpable misreading of records, the Revisional Court is not justified in setting aside the order, merely because another view is possible. The Revisional Court is not meant to act as an appellate court. The whole purpose of the revisional jurisdiction is to preserve the power in the court to do justice in accordance with the principles of criminal jurisprudence. The revisional power of the court under Sections 397 to 401 CrPC is not to be equated with that of an appeal. Unless the finding of the court, whose decision is sought to be revised, is shown to be perverse or untenable in law or is grossly erroneous or glaringly unreasonable or where the decision is based on no material or where the material facts are wholly ignored or where the judicial discretion is exercised arbitrarily or capriciously, the courts may not interfere with decision in exercise of their revisional jurisdiction.”

30. In this view of the settled position of law about Revisional Powers of this court to interfere with the orders of the subordinate

3 (2015) 3 SCC 123

court, circumscribed by the statute and explained in the judicial pronouncements, I do not find any case for interference made out by the Applicants for the exercise of power of this Court in its Revisional jurisdiction. In the result, the Criminal Revision Application fails.

31. Rule is discharged.

(MANJUSHA DESHPANDE, J.)