Arjun

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO.4874 OF 2025

Ganesh Nandkumar Kirdat …Petitioner

Versus

The State of Maharashtra & Anr. …Respondents

ARJUN VITTHAL KUDHEKAR
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Date: 2025.10.27 17:10:43 +0530

Mr. Devkrishna Bhambri a/w Shivam Gupta, for the Petitioner.

Mr. S. A. Karmakar, APP for the Respondent-State.

Ms. Pratibha V. Bhosale a/w Mitali S. Pagare & Ashwini R. Gangurde, for Respondent No.2.

CORAM: MADHAV J. JAMDAR, J.
DATED: 17 OCTOBER 2025

P.C.:

1. Heard Mr. Devkrishna Bhambri, learned Counsel appearing for the Petitioner and Ms. Pratibha Bhosale, learned Counsel appearing for Respondent No.2.

2. By Order dated 10th October 2025 this Court appointed Mr. Dinesh Adsule, learned Counsel of this Court as Mediator as it was represented by both the parties that the dispute can be resolved. However, today both the learned Counsel state that it is not possible to settle the dispute. Accordingly, the Writ Petition is heard on merits.

3. The challenge in this Writ Petition is to the Order dated 14th May 2025 passed by the learned Additional Sessions Judge, Belapur, Navi Mumbai, below Exhibit-8 in PWDVA Appeal No.1 of 2025. The operative part of the said Order dated 14th May 2025 reads as under :-

"***ORDER***

1. *Pending decision of present PWDVA Appeal, the effect and operation of interim order passed below Exh.5 in PWDVA No.137/2023 be stayed subject to payment of 50% of the arrears of maintenance as on today.*

2. *The amount ordered above shall be paid within 30 days from the date of this order. On failure, the stay granted above shall stand vacated automatically.*"

Thus, what has been directed by the learned Additional Sessions Judge is that the stay to the impugned Order in Appeal has been granted on the condition of payment of 50% of the arrears of maintenance. It is further directed that if the same is not deposited within 30 days, then the stay granted shall stand vacated forthwith.

4. The impugned Order in said PWDVA Appeal No.1 of 2005 is the Order dated 4th December 2024 passed by the learned J.M.F.C., 3rd Court, Belapur, Navi Mumbai, by which the Petitioner-husband has been directed to pay the Respondent No.2-wife maintenance of Rs.6,000/- per month w.e.f. date of the application i.e. 18th August 2023. The learned Appellate Court by the impugned Order dated 14th May 2025 granted stay to the said Order on the condition of deposit of 50% of the arrears.

5. The position on record shows that it is the contention of the Respondent No.2-wife that as her father has passed away, she had expressed that she would be in a position to spend very limited amount

towards marriage expenses, however, the Petitioner and his family insisted for various expenses and therefore the Respondent No.2 was required to make expenses of Rs.6,00,000/-. The said amount has been taken by the Respondent No.2 as loan from various persons including her office colleagues, relatives, etc. It is her contention that after marriage the Petitioner and his family has taken her entire salary and also taken her ornaments, etc. It is her contention that her salary is Rs.18,000/- per month, however, she has to repay said loan of Rs.6,00,000/- taken from various persons and salary of the Petitioner is Rs.40,000/- per month and therefore she has sought maintenance of Rs.10,000/- per month. It is the contention of the Petitioner that as the financial condition of the Respondent No.2 was not good entire expenditure of marriage was borne by the Petitioner and his family. The Respondent No.2 for very minor reasons started quarreling and suddenly left the matrimonial house and it is contended that his salary is Rs.22,000/- per month. The learned J.M.F.C. granted Rs.6,000/- per month as maintenance to the Respondent No.2. The said Order is challenged by filing said PWDVA Appeal No.1 of 2025 and by the impugned Order of learned Additional Sessions Judge, order of learned J.M.F.C. is stayed subject to deposit of arrears of 50% of the maintenance amount.

6. In the light of above contentions raised by the parties before the

learned J.M.F.C. and before learned Additional Sessions Judge, it is necessary to consider the rival submissions.

7. It is the main submission of Mr. Bhambri, learned Counsel for the Petitioner that no conditions can be imposed for entertaining the Appeal. To substantiate the said contention, Mr. Bhambri, learned Counsel, has relied on the decision of the Division Bench of the Delhi High Court in ***Sabina Sahdev and others v. Vidur Sahdev*** [1]. In the said decision of ***Sabina Sahdev*** (supra), the Division Bench of the Delhi High Court has held that the directions given by the learned Single Judge of the Delhi High Court which were challenged before the Division Bench of the Delhi High Court could not have been issued as it has the effect of curtailing the statutory remedy of Revision under Section 399 read with Section 401 of the *Code of Criminal Procedure, 1973* ("**CrPC**") and of Appeal under Section 29 of the *Protection of Women from Domestic Violence Act, 2005* ("**DV Act**") against orders granting interim maintenance under Section 125 of CrPC and Section 23 of the DV Act, respectively.

8. To appreciate the submission of Mr. Bhambri, learned Counsel of the Petitioner, it is necessary to set out direction issued by the learned Single Judge of the Delhi High Court which was challenged before the Division Bench of Delhi High Court in ***Sabina Sahdev*** (supra). The said direction issued by the learned Single Judge of the Delhi High Court is

1 2018 SCC OnLine Del 9747

reproduced in Paragraph 4.4 of the said decision of Division Bench in ***Sabina Sahdev*** (supra). Said Paragraph No.4.4 reads as under :-

> "***4.4*** *The learned Single Judge further observed in para 20 as follows:*
>
> *"20. Keeping in view the fact that interim maintenance applications are likely to take a year for being disposed of and that the payment to the wife is likely to be made only thereafter,* ***it is only just and fair that the revisional Court should insist on the deposit in Court of the interim maintenance payable in terms of the order under challenge as a pre-condition to entertaining the revision petition.*** *Otherwise a recalcitrant husband can, despite suffering an adverse order, defeat that order merely by filing a revision petition and not being burdened with the responsibility of complying with it".*
>
> *(emphasis supplied)*"

Thus, it is clear that what the learned Single Judge of the Delhi High Court had directed that the revisional Court should insist on the deposit in Court, the interim maintenance payable in terms of the order under challenge as a per-condition to entertb.vocain the revision petition.

9. A bare perusal of the impugned Order dated 14th May 2025 of the learned Additional Sessions Judge clearly shows that no such pre-condition has been imposed. What has been done by the impugned Order is that the stay has been granted to the Order dated 4th December 2024 passed by the learned JMFC by which the interim maintenance of Rs.6,000/- has been directed to be paid and the said stay has been granted to the said Order on the condition that the

Petitioner pays 50% of the amount of arrears of maintenance. Thus, the said Judgment in the case of ***Sabina Sahdev*** (supra) has no application to the present case.

10. Even the reasoning given by the learned Additional Sessions Judge in Paragraph No.2 of the Order dated 14th May 2025 clearly shows that no such direction as given by the learned Single Judge of the Delhi High Court is given by the impugned Order. Said Paragraph No.2 reads as under :-

> "*2. The Appellant/applicant appears to have raised arguable grounds/points which requires consideration on merit. It will require some time to decide present Appeal. In the meantime, the effect and operation of interim maintenance order dated 04.12.2024 passed below Exh.5 passed by Ld. J.M.F.C. 3rd Court, CBD-Belapur, is not stayed then very purpose of filing present Appeal would be frustrated. At the same time, it appears that huge arrears of maintenance is to be recovered. Considering said fact, while staying the execution and operation of impugned order passed below Exh.5 dated 04.12.2024, it is just and equitable to order the Appellant/applicant to deposit 50% of the arrears of maintenance till today.*"

11. Accordingly, there is no substance in the present Writ Petition. No case is made out for interference in the impugned Order under the jurisdiction of this Court under Article 227 of the Constitution of India. Accordingly, the Writ Petition is dismissed, however, with no order as to costs.

[MADHAV J. JAMDAR, J.]