

Arjun

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION NO.136 OF 2025

Kamlesh Vashdev Laungani ...Applicant

Through his POA Holder

Simran Rajesh Kewalramani

Versus

Namrata Kamlesh Laungani & Ors.

...Respondents

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Mr. R. S. Chaubey, for the Applicant.

Mr. Anish Sharma a/w Pulkeshi Gaikwad i/b Dinesh D. Tiwari & Associates, for Respondent No.1.

Ms. S. K. Gajre, APP, for the Respondent-State.

CORAM: MADHAV J. JAMDAR, J.

DATED: 15 DECEMBER 2025

P.C.:

1. Heard Mr. Chaubey, learned Counsel appearing for the Applicant and Mr. Sharma, learned Counsel appearing for Respondent No.1.
2. By the present Criminal Revision Application, the Applicant is challenging the legality and validity of the Order dated 24th March 2021 passed by learned Additional Chief Metropolitan Magistrate, 24th Court, Borivali, Mumbai, below Application filed by the Respondent No.1 seeking interim relief in C.C. No.166/DV/2017 as also Order dated 3rd January 2025 passed by learned Additional Sessions Judge, Dindoshi (Borivali Division), Goregaon, Mumbai, in Criminal Appeal No.200 of 2022.

3. By the impugned Order dated 24th March 2021, learned Additional Chief Metropolitan Magistrate has granted Rs.50,000/- per month as maintenance to the Respondent No.1 i.e. the wife and the daughter and Rs.25,000/- towards accommodation. The said Order has been confirmed by the Order dated 3rd January 2025 passed by the learned Additional Sessions Judge in Criminal Appeal No.200 of 2022.
4. Both the Courts have held that the Applicant is running a Ladies Bar Night Club, "Carre Club", Essential Hair and Beauty Spa and Group Casino in Kinshasa, D.R. Congo, Africa and having income of over Rs.25,00,000/- per month. It is an admitted position that the Applicant is staying in D.R. Congo, Africa.
5. Mr. Chaubey, learned Counsel for the Applicant, submitted that the said business is now not being conducted. However, he fairly admitted that the Applicant is staying in Congo, Africa.
6. It is the contention of Mr. Sharma, learned Counsel for Respondent No.1 that the arrears are to the tune of Rs.59,75,000/-.
7. The main contention raised by learned Counsel for the Applicant is that the child is not the biological child of the Applicant, as the sperm of his brother-in-law was used to conceive the child and the Respondent No.1 is staying with his brother-in-law.
8. Perusal of the record shows that admittedly both the Applicant and Respondent No.1 were undergoing IVF treatment and the child

born is by the said treatment.

9. This contention was raised on earlier occasion before this Court in earlier round of litigation. A learned Single Judge by Order dated 4th January 2024 passed in Revision Application No.2 of 2024 has held that the object regarding the provisions of the *Protection of Women from Domestic Violence Act, 2005* is for the protection of persons facing domestic violence, and therefore such contentions cannot be allowed to be raised at the stage of interim orders.

10. In any case, it is also required to be noted that the birth of the child took place on 9th March 2006. Admittedly the child is IVF Baby. It is the contention of Respondent No.1-wife that, after the birth of the child, when the Respondent No.1-wife went to Africa to stay with the Applicant, she found that the Applicant was living with his new girlfriend and therefore ultimately she returned back to India and started residing with her parents and filed the DV proceedings. This contention is not raised immediately after the birth of the child but several years thereafter.

11. This is a case where the Applicant-husband has not filed an Affidavit of Assets and Liabilities. Thus, in view of the law laid down by the Supreme Court in ***Rajnish v. Neha***¹, adverse inference is required to be drawn against the Applicant.

12. It is one of the contention of Mr. Chaubey, learned Counsel that

¹ (2021) 2 SCC 324

the Applicant could not file the Affidavit of Disclosure because the learned JMFC proceeded ex parte against him. However, it is required to be noted that the Applicant filed a Criminal Appeal before the learned Sessions Court and in the said Appeal also he has not filed Affidavit of Disclosure.

13. The perusal of the record shows that the Applicant tried to avoid the service and thereafter inspite of service failed to appear and therefore learned Magistrate directed that said DV proceedings be proceeded ex parte. It is relevant to note Paragraph Nos.12 to 14 of the Affidavit dated 31st July 2025 filed by the Respondent No.1, which reads as under :-

“12. It is specifically submitted herein that, subsequent to the Respondent No.1 filing the said DV Application no.166 of 2017, all the Respondents therein were duly served including the Applicant herein, who was served with great difficulty, after trying to avoid service multiple times in India and Africa. Further that, summons were issued to the Respondents, however, even after being provided with multiple opportunities, the Applicant deliberately did not appear and none of the Respondent nos. 2-4 filed their replies before the Ld. CMM Court. Accordingly, vide order dated 14th February, 2018, a "No-Say" order was passed by the Ld. CMM against Respondent No.2-4.

13. Further, the Ld. CMM re-issued summons to Applicant herein and directed the same to be served to him through Indian Consulate in D.R. Congo vide order dated 8th February, 2019 and the same was served to him on March 29, 2019. However, despite of receipt of summons, the Applicant deliberately and intentionally never appeared before the Ld. CMM Court and avoided the proceedings in order to cause unnecessary delay, hence no effective proceedings could take

*place from 2017 till the year 2021 due to the mischievous conduct of Respondents herein. Considering the conduct of Applicant, Ld. CMM passed vide an order dated 4th December, 2019, directed the proceedings in DV Application to be conducted "Ex-Parte" against him. It is a matter of record that both, the No Say order and the Ex-Parte order have still not been vacated nor any applications to vacate the same have been filed, either by the Applicant or the Respondents 2 to 4 therein. Hereto annexed as **Exhibit " E " colly** is the Copy of the Summons re-issued by the Ld. CMM Court and Copy of the Order dated 4th December 2019 to proceed Ex-Parte against the Respondent No.1 therein.*

14. It is pertinent to note here, that recently in 2024 it came to light for the very first time, when the copy of the POA was placed on judicial record for the first time in Suit proceedings S.C. Suit 998 of 2018, that the Applicant had executed and appointed his sister, who is the Respondent No.2 herein, as his Certified Power of Attorney way back in February 2018 itself, but in collusion with each other, they deliberately avoided to bring the Applicant's appearance on record in the DV proceedings. The copy of the said POA is already on record herein in the Applicant's compilation."

It is significant to note that this Criminal Revision Application has been also filed by the Applicant through Constituted Attorney - Respondent No.2 i.e. sister of the Applicant on the basis of Power of Attorney dated 7th March 2018.

14. Thus, the conduct of the Applicant clearly shows that the Applicant wanted to prolong the hearing of said DV proceedings including Interim Application filed therein.

15. Admittedly, Respondent No.1 is staying with her mother and daughter. Thus, in the facts and circumstances, no case is made out for interference.

16. Accordingly, there is no substance in the Criminal Revision Application. The Criminal Revision Application is dismissed with cost of Rs.50,000/-.

[MADHAV J. JAMDAR, J.]