



IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.

CRIMINAL WRIT PETITION NO. 622/2023

Swarnalata Arun Ghanmode,
aged about 47 yrs., Occ. Housewife,
R/o. C/o. Tarachand B. Kamble,
Sane Guruji Nagar, Maregaon,
Tah. Maregaon, Dist. Yavatmal.

...PETITIONER

VERSUS

Arun S/o Ramdasji Ghanmode,
Aged about 61 yrs, Occ. Private,
R/o. S.T. Colony, near Radha-Krishna
Mandir, Yavatmal, Tah & Dist. Yavatmal
(Husband of petitioner)

...RESPONDENT

Mr. N. Gurnanif, Advocate h/f Mr. A.S. Dhore, Advocate for
petitioner
Ms. K. Deshpande, Advocate h/f Mr. T. S. Deshpande, Advocate for
respondent.

CORAM : M. M. NERLIKAR, J.
DATE : 18.11.2025

ORAL JUDGMENT :

Heard.

2. By the present petition filed under Articles 226 and 227 of the Constitution of India, the petitioner challenges the judgment and order dated 13.07.2022 passed by the learned Additional Sessions Judge, Kelapur, Dist. Yavatmal in Criminal Appeal No.2/2022, wherein the judgment and order dated 25.06.2020 passed by the learned Judicial Magistrate First Class, Maregaon Dist. Yavatmal granting Rs.1500/- as maintenance and compensation of Rs.5000/- under the Protection of Women from the Domestic Violence Act, 2005 ("D.V. Act") was quashed and set aside.

3. Brief facts:-

The marriage between the petitioner and respondent was solemnized on 21.04.1995. They have two sons out of the wedlock, both have attained the age of majority. The petitioner wife had submitted a complaint on 13.08.2018 before the Protection Officer, Maregaon for grant of protection under the Domestic Violence Act. That, upon considering the allegations of the petitioner, Domestic Violence Report came to be filed and upon the reply of the respondent, the learned trial Court has

passed the judgment and order on 25.06.2020, whereby the Trial Court issued the directions to the respondent to pay monthly maintenance of Rs.1500/- to the petitioner- wife and Rs.5000/- towards the litigation costs. However, in appeal the learned Appellate Court has set aside the judgment and order passed by the learned trial Court, on 13.07.2022. Being aggrieved by the order in appeal, the petitioner has preferred this petition.

4. The learned counsel for the petitioner submits that the Appellate Court apparently failed to take into consideration the entire material placed on record. The ground on which the appeal was allowed is not tenable and contrary to the evidence on record. He submits that the Appellate Court has observed that allegations are vague, therefore there is no domestic violence. The Appellate Court has allowed the appeal on the basis of admission given in the cross-examination. On the contrary, no admission in the cross-examination was given, and suggestions given to the petitioner were denied by the petitioner. He further submits that the another ground on

which the appeal was allowed is that the petitioner left the company of the husband by her own will, this finding is against the evidence on record. He further submits that the Appellate Court has placed heavy reliance on quashing of FIR against the present respondent by the High Court and therefore, came to the conclusion that the allegations are vague in nature. Accordingly, he submits that even though the FIR is quashed, the parameters under the D.V. Act are totally different. A meagre amount of Rs.1500/- was granted by the Trial Court and therefore, the Appellate Court ought not to have disturbed the findings of the Trial Court and accordingly, prayed to allow the petition.

5. On the other hand, the learned counsel for the respondent submits that, the judgment of the Appellate Court is based on sound reasoning. The Appellate Court has considered entire evidence on record and came to the conclusion that the allegations are vague. The petitioner had also made allegations against his sons. Further, it is contended that vital admissions have come on record in the cross-examination of the petitioner

which are against her case and therefore, there is no substance in the contentions raised by the petitioner. Further, there is no evidence which proves that the respondent has committed domestic violence on the petitioner. The petitioner has left the company of the respondent herself as per her own wish and will. Lastly, the learned counsel for the respondent submits that that the FIR registered by the present petitioner was quashed by the High Court observing that the allegations are vague, wherein similar allegations were made by the petitioner which are made in the present proceedings also and so he prayed to reject the present writ petition.

6. Upon hearing both the counsel and after going through the material available on record, it appears that the Trial Court has granted Rs.1500/- to the petitioner as maintenance after considering the entire evidence on record and thereafter held that domestic violence is committed by the respondent and to that effect, those allegations have been proved by the present petitioner. In support of the complaint, the petitioner had filed the affidavit of examination-in-chief, wherein she has

specifically stated that the respondent-husband used to beat her, it further appears from the evidence that the respondent suspected her character. and frequently he used to torture her and lastly, it is stated in the examination-in-chief that on 30.05.2018, she was driven out of the house by the husband. It has also come on record that when the petitioner went to meet her son in the Government Hospital, at that time also, the respondent has abused her in filthy language and beat her. In the cross-examination, it was tried by the learned counsel for respondent to bring on record regarding her conduct and character by putting certain suggestions and it was also attempted to bring on record that she is earning as she was running a stationary shop. Further, it was also tried to bring on record that she was having ample balance in her bank account. However, there is nothing to suggest that her evidence so far as the domestic violence is concerned, has been shaken in the cross-examination. In order to appreciate the evidence led by the petitioner, it is necessary to consider the definition of Section 3 of the D.V. Act which reads 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.”

After going through the evidence of the petitioner, in my opinion, nothing has been brought on record by the respondent, to prove his allegations, the findings of the Appellate Court in that regard are perverse and merely observing that the allegations are vague in nature is not sufficient.

7. After perusal of the complaint as well as evidence led by the petitioner, it has come on record that the respondent used to suspect her character, beat her and she was driven out of the house. All these factors are covered under the definition of Domestic Violence. Further, it is necessary to consider overall facts and circumstances of the case and therefore the Appellate Court has miserably failed to take into consideration, the evidence led by the petitioner in its true perspective. The ground on which the appeal was allowed, was “vague allegations” however, there is nothing to suggest that the petitioner has made vague allegations. On the contrary, it has come on record that the respondent used to suspect her character, therefore it amounts to mental harassment to the petitioner. The finding about the admission in the cross-examination of the petitioner by the Appellate Court is also perverse for the reasons that there are no vital admission, which undermines the case of the petitioner, on the contrary, she has specifically deposed about beating and use of filthy language. Further, the finding of the Appellate Court to the extent that the

petitioner left the company of respondent by herself is perverse as the evidence itself at para 5, specifically states that on 30.05.2018, the respondent has driven her out of the house. It is further to be noted that the Appellate Court has heavily been influenced by the fact that the High Court has quashed the FIR registered under Section 498-A of the Indian Penal Code on the ground that the allegations are vague. However it is necessary to mention at this juncture that the parameter for quashing of the FIR registered under Section 498-A of the Indian Penal Code and the case under the D.V. Act is all together different, therefore each case has to be considered on its own merits. It is necessary to mention that all the allegations have to be taken in its entirety and therefore, merely taking some part from the evidence is not sufficient to come to the conclusion that there is no domestic violence. Apparently, the Appellate Court has failed to consider these aspects.

8. Considering the above facts and circumstances, the case is made out by the petitioner to interfere with the order of

the Appellate Court and accordingly, the following order is passed:-

ORDER

- I. Criminal Writ Petition is allowed.
 - II. This Court hereby quash and set aside the judgment and order dated 13.07.2022 passed by the learned Additional Sessions Judge, Kelapur, Dist. Yavatmal in Criminal Appeal No.2/2022.
9. Petition stands disposed of in above terms.

(M. M. NERLIKAR , J.)

Gohane