



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

CRIMINAL REVISION APPLICATION NO. 170 OF 2024

APPLICANTS

1. : Janardhan s/o Pandurang Galkar
Aged 47 years, Occ- Labour,
R/o. WarwatKhanderao, Tq.
Sangrampur, Dist. Buldhana.
2. Satyabhama w/o Haridas Badhe,
Aged 56 years, Occ- Household
R/o Wadshingi, Tq. JalgaonJamod,
Dist.Buldhana

-VERSUS-

RESPONDENT

Ujjwala w/o Janardhan Galkar
Aged: 40 years, Occ: Housewife
R/o C/o. Anant Parvatrao Thakare,
Wadshingi, Tal: Jalgaon Jamod, Dist:
Buldhana.

Ms. Garima Jain, counsel h/f Mr. S.V. Sirpurkar, counsel for
applicants.

CORAM : **URMILA JOSHI-PHALKE, J.**
DATE : **16/07/2025**

ORAL JUDGMENT :

1. Despite the service and sufficient opportunity, the respondent fails to appear, therefore revision is taken up for the final disposal.
2. Heard.
3. **Admit.** Heard finally with consent of learned counsel for the applicant.
4. By preferring this revision application, the applicant has challenged the order passed by the Judicial Magistrate First Class, Jalgaon Jamod in PWDVA No. 14/2023, granting maintenance at the rate of Rs. 9,000/- per month to the non-applicant, which is confirmed by the Additional Sessions Judge, Khamgaon, District Buldhana, in PWDVA Appeal No. 08/2024, dated 24/07/2024.
5. The brief facts which are necessary for disposal of the application are as under.

The non-applicant/wife has filed an application under Section 12 of the Protection of Woman from Domestic Violence Act (hereinafter referred to “the D.V. Act”), contending that she is the wife of the present applicant and was subjected for domestic violence at his hand. Her marriage with the applicant was

solemnized on 12/02/2018, and thereafter, she resumed the cohabitation with the present applicant, but was subjected for the domestic violence. There was a customary dissolution of marriage with the present applicant. It is further contended that after solemnization of marriage, her dreams of a happy marriage comes to an end, as the present applicant, from a very initial stage, told her not to interfere in his decisions and used to abuse her and disrespect her on various occasions. Therefore, she was constrained to leave the matrimonial house and approached to the Women Redressal Forum, Jalgaon Jamod on 01/04/2022. As the present applicant refused to cohabit with her, she constrained to file an application for grant of monetary relief under Section 12 of the D.V. Act. In the said application, she has also claimed interim maintenance.

6. The application for interim maintenance was opposed by the present applicant on the ground that there is no valid marriage performed between him and the present applicant, and he had already approached to the Court for declaring the marriage as null and void, and the said application is being pending. He also denied the contentions as to the domestic violence and submitted that with the false and baseless allegations, this

application is filed. She submitted that, there was no domestic relationship between him and the non-applicant and therefore, she is not entitled for any amount towards maintenance.

7. After hearing both sides and on perusal of the record, the learned Magistrate observed that there is no documentary evidence to show that the present applicant owns an agricultural land and earning Rs. 10 to 15 lakhs per annum. Considering that he is doing labour work and earning Rs. 500/- per day, the amount of maintenance was granted at the rate of Rs. 9000/- per month.

8. Being aggrieved and dissatisfied with the same, the present applicant preferred an appeal, which also came to be dismissed and hence this revision.

9. Heard learned counsel for the applicant, who submitted that the amount of maintenance was granted merely on the assumption that the applicant is earning Rs. 500/- per day from doing the labour work. She submitted that the applicant has denied the marriage and alleged that there was no domestic relationship between present applicant and the non-applicant. But with all such baseless allegation, the application is filed and the

learned Magistrate as well as learned Sessions Judge has not considered the same and granted maintenance at the higher rate, which is excessive and exorbitant one. In view of that, the revision be allowed and order of maintenance be modified.

10. On hearing both sides and on perusal of the orders passed by both the courts below, it is revealed that the applicant has prayed that there was no domestic relationship between him and non-applicant, and he has already filed the appropriate proceedings before the Civil Judge, Junior Division bearing R.C.S. No. 3/2023, for declaring the marriage as null and void.

11. She further submitted that the FIR lodged against the present applicant under Section 498-A by the non-applicant and the same is also pending. Thus, as far as the aspect of the domestic violence at the hands of the present applicant is yet to be proved by the non-applicant. She submitted that the definition of the domestic relationship defined under Section 2 sub-clause (f) of the DV Act states that, relationship between two persons who live or have, at any point of time, lived together in a shared household, when they are related by consanguinity, marriage, or through a relationship in the nature of marriage, adoption or are family members living together as a joint family. Admittedly, this

aspect is to be established during the evidence. At this stage, while considering the aspect of grant of interim maintenance, the prima-facie material is to be looked into. The learned trial Court as well as the appellate Court has considered that even long-standing relationship between both the persons is sufficient to hold that there was a domestic relationship. The learned Judicial Magistrate First Class relied upon some photographs and observed that the photographs shows that the marriage was performed between the applicant and the non-applicant. Being there was a domestic relationship, the applicant was directed to pay maintenance at the rate of Rs.9,000/- by holding that he was doing the labour work and earning Rs. 500/- per day. Thus, the order passed by the Judicial Magistrate First Class itself sufficiently shows that, by assuming the income of the present applicant at the rate of Rs. 500/- per day, the order of maintenance was granted by the Judicial Magistrate First Class. As far as the order passed by the Additional Sessions Judge is concerned, he has not dealt with the aspect of income of the present applicant, only he has dealt with the aspect of domestic relationship and the provision of monetary relief.

12. On hearing both sides and on perusal of both the

orders passed by the Judicial Magistrate First Class as well as by the Additional Sessions Judge, at this stage, it reveals that on the basis of the photographs, the applicant has established that there was a domestic relationship, and therefore, maintenance was granted. The interim maintenance is granted on the basis of the assumption that he is earning Rs. 500/- per day by doing the labour work. Admittedly, the applicant is residing in the Sangrampur District, Buldhana and there is no evidence to show that he was holding any agricultural land. The learned Magistrate consider his income as Rs. 500/- per day. Admittedly, now-a-days agricultural operations are in progress, but assuming the amount of Rs. 500/- per day is at a higher side. There is no dispute as to the legal aspect that the non-applicant/wife is entitled to receive the maintenance as per the status of her husband. However, in the absence of evidence on record regarding his exact income, it would be reasonable to ascertain his income based on the Minimum Wages Act, which would likely be around Rs. 250 to Rs. 300 per day, translating to approximately Rs. 6,000 per month. The applicant has to incur the expenses towards his livelihood also. At the same time, considering the prices of the essential commodities are touching the sky, therefore, in those

circumstances, to live the normal life, the amount of Rs. 3000/- would be a meager amount.

13. In view of that, the amount of maintenance is to be granted by the Judicial Magistrate First Class by observing Rs.500/- per day is to be reduced by assuming that he was earning Rs. 400/- per day and was getting income Rs. 12,000/-. By deducting the amount of his livelihood, the amount of maintenance at the rate of Rs. 6,000/- to the non-applicant would be in the interest of justice. In view of that, revision deserves to be allowed partly. Hence, I proceed to pass the following order.

ORDER

- a] Revision Application is **allowed partly**.
- b] The order of the Judicial Magistrate First Class confirmed by the Additional Sessions Judge is hereby modified and reduced from Rs. 9000/- to Rs. 6000/-, and the applicant shall pay the said amount on or before 10th of every month from the date of this order.

[URMILA JOSHI-PHALKE, J.]