



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

CRIMINAL WRIT PETITION NO. 871 OF 2023

PETITIONER

Malindra Nagorao Masale,
Age 45 years, Oecu: Service
R/o Kumbharkhani WCL Area
Ghonsa Boarda Wani, Tah. Wani,
Dist. Yavatmal

-VERSUS-

RESPONDENT

Sau. Kisnabai Nagorao Masale
Aged 70 years, Oecu- Cultivation
R/o c/o Mohan Nagorao Masale Katariya
Layout, Behind Reliance Petrol Pump,
Warora, Tah. Warora, Dist. Chandrapur

Mr. A.A. Dhawas, counsel for petitioner.
Ms Shaziya Patha, counsel h/f Mr. S.V. Sirpurkar, counsel for
respondent.

CORAM : URMILA JOSHI-PHALKE, J.
DATE : 12/06/2025

ORAL JUDGMENT :

1. Heard.
2. **Rule.** Rule returnable forthwith with consent of
learned counsels appearing for the parties.

3. By this petition, the petitioner has challenged the order passed by Judicial Magistrate First Class, Warora, granting maintenance in Domestic Violence Act proceedings No. 16/2017, granting maintenance @ Rs.7,000/-, which was subsequently reduced to Rs. 5,000/- by the Additional Sessions Judge, Warora, District Chandrapur, in Criminal Appeal No. 17/2022.

4. The petitioner is the son of the respondent, who is the original respondent in Domestic Violence proceeding No. 16/2017, which was filed before the 2nd Joint Judicial Magistrate First Class, Warora, under Section 12 of the Protection of Women from Domestic Violence Act, 2005 (hereinafter referred to as “the D.V. Act” in short).

The application was filed by the mother, i.e., the respondent, for grant of monetary relief under Section 12 of the DV Act, on an allegation that the present petitioner, who is her son, subjected her for domestic violence and ill-treated her by not allowing her to cook the food for herself and driving her out of the house. She has also filed a complaint at Warora Police Station on 03/04/2017. On the basis of which the offence under Sections 504 and 506 of the Indian Penal Code, 1860 was registered. The

respondent, who is the old-aged lady, has no source of income. She has also utilized her golden ornaments to seek the job for the present petitioner. She is unable to maintain herself. She was staying at the mercy of the present petitioner, but present petitioner has not treated her well and has driven her out of the house, and therefore, she is constrained to file the application for grant of monetary relief.

5. The said petition is strongly opposed by the respondent on the ground that with the false and baseless allegations, this petition is filed. She has a source of income. She has other sons also, who can maintain her. There is no sufficient means available with him to maintain the present respondent. He is drawing a salary of only Rs. 15,000/-, and he has to maintain his family, and therefore, the order passed by the Judicial Magistrate First Class, Warora, which is reduced by the Additional Sessions Judge, Warora, in Criminal Appeal No. 17/2022, is excessive and exorbitant. The learned Magistrate after appreciating the evidence granted the maintenance @ Rs. 7000/-, from the date of application, i.e., from 14/08/2017, as well as the compensation of Rs. 15,000/-.

6. Being aggrieved and dissatisfied with the same, the present petitioner preferred an appeal, which was partly allowed, and he was directed to pay the maintenance @ Rs. 5,000/- from the date of application.

7. Being aggrieved and dissatisfied with the same, the present writ petition is filed by the petitioner on the ground that both the courts below have not considered the present respondent has sufficient means to maintain herself. Besides the present petitioner, she has two other sons who can maintain her. She also having the income from her agricultural land. Thus, considering all these aspects, the order passed by both the Courts below deserves to be quashed and set aside.

8. Heard learned counsel for the petitioner through video conferencing and learned counsel for respondent. Perused the impugned judgment as well as the record. There is no dispute as far as the relationship is concerned. As per the contention of the present petitioner, the respondent is drawing income from the agricultural land, whereas as per the contention of the respondent, she was holding land, which was sold to secure the job of the present petitioner, as well as her golden ornaments, which were

also sold to seek the job for the present petitioner. As far as the domestic violence is concerned, the evidence of respondent shows that she was ill-treated, harassed and subjected for domestic violence in various manners and therefore, she lodged the complaint at Warora Police Station under Sections 504 and 506 of the Indian Penal Code, 1860.

9. Moreover, her evidence as well as the documents on record, which also substantiate the fact that she has lodged the complaint against the present petitioner. Thus, the oral evidence of the present petitioner as well as the documentary evidence that she filed the report against the present petitioner sufficiently shows that she was subjected for domestic violence by the present petitioner.

10. In view of Section 12 of the D.V. Act, she is entitled for monitory relief if she establishes that she was subjected for domestic violence at the hands of the present petitioner. As already observed, her oral evidence, as well as the NC Report, which was lodged against the present petitioner, sufficiently establishes that she was constrained to leave her house, as she was treated with violence at the hands of the present petitioner.

11. Furthermore, coming to another aspect, whether she is entitled for compensation as well as maintenance, there is no dispute that the present petitioner is working in the Western Coal Field (WCL) and drawing a handsome salary of Rs. 70,000/-. The present petitioner has also admitted the said fact in his reply filed before the trial Court. As per the evidence of the respondent, her golden ornaments as well as some of the agricultural land were sold to secure the job of the present petitioner. Thus, the evidence on record sufficiently shows that the petitioner is having sufficient means to grant maintenance. The learned trial Court as well as the learned Sessions Judge has rightly considered these aspects and considered that she was subjected for domestic violence and constrained to leave the matrimonial house, and therefore, she is entitled for the maintenance. The allegation levelled by her is established by the petitioner.

12. Thus, the evidence on record sufficiently shows that there was physical violence with the present respondent, and therefore, she left the house and is staying separately. Thus, considering all these aspects and in view of the settled law that monetary relief is available to the mother as well as the wife, who

are the aggrieved persons under Section 20 of the DV Act. When the aggrieved person establishes that he or she had been subjected for domestic violence and suffered due to the domestic violence on the part of the respondent, they are entitled for compensation as well as monetary relief.

13. Considering the specific allegation levelled against the present petitioner and considering the documentary evidence, which establishes that she was subjected for domestic violence, the order of granting maintenance awarded by the learned Additional Sessions Judge is a proper and legal one. Therefore, no interference is called for in the order passed by the Additional Sessions Judge granting maintenance at the rate of Rs. 5,000/-. Hence, the writ petition is devoid of merits and liable to be dismissed. Accordingly, I proceed to pass the following order.

- a] The writ petition is **dismissed** accordingly.
- b] Rule is discharged. No cost.

[URMILA JOSHI-PHALKE, J.]