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HIGH COURT OF CHHATTISGARH AT BILASPUR

CRR No. 1074 of 2025

1 - Seeta Bai Daughter Of Malik Ram Aged About 30 Years Resident Of Kasaipali, P.S. Dipka, District- Korba (Chhattisgarh) (Respondent/ Plaintiff)

... Applicant

versus

1 - Suryakant Kashyap Son Of Late Chattram Kashyap Aged About 31 Years R/o Village Mohanpur Tahsil And Police Station Katghora, District- Korba (C.G.)

... Respondent

(Cause title, as taken from CIS)

For Applicant	:	Mr. Ritesh Verma, Advocate.
For Respondent	:	Mr. Vivek Mishra, Advocate

(Hon'ble Shri Justice Naresh Kumar Chandravanshi)

Order on Board

08/10/2026

1. This criminal revision has been preferred by the applicant under Sections 438 and 442 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short, “BNSS”), challenging the impugned judgment dated 04.07.2025 passed by the learned I Upper Sessions Judge, Katghora, District Korba (C.G.) in Criminal Appeal No.26/2024, whereby the learned Appellate Court has allowed the appeal preferred by respondent/husband by setting aside the order dated 21.08.2024 passed by the learned Judicial Magistrate First Class, Katghora, District

Korba in CIS No.15/2018 (*Sita Bai vs. Suryakant Kashyap and Ors.*), whereby the learned Trial Court had granted rent allowance of Rs.3,000/- per month under Section 19, Rs.2,000/- towards monetary relief under Section 20 and Rs.2,000/- towards compensation for mental agony and emotional distress under Section 22 of the Protection of Women from Domestic Violence Act, 2005 to the applicant herein/wife.

2. Facts of the case, in brief, are that the marriage of the applicant/wife was solemnized with respondent on 17.04.2009 as per the Hindu customs and rituals. They have two children, a daughter and a son, who are residing with the applicant. It is alleged that due to a dispute between the applicant's brother and the respondent's cousin (daughter of his uncle), the respondent started blaming and harassing the applicant. It is further alleged that when the applicant was unwell, respondent gave her nine Nisip pills, out of which one got stuck in her throat, and thereafter left her during treatment. Since then, the applicant has been residing at her parental home along with her children. It is also alleged that the respondents have not provided maintenance or taken care of the applicant and her children. The applicant, therefore, filed an application under Section 12 read with Sections 18, 19, 20, 21 & 22 of the Protection of Women from Domestic Violence Act, 2005, seeking maintenance, residence, medical expenses and compensation. The learned Trial Court, vide order dated 21.08.2024, granted rent allowance of Rs.3,000/- per month under Section 19, Rs.2,000/- towards monetary relief under Section 20 and Rs.2,000/- towards compensation for mental agony and emotional distress under Section 22 of the DV Act to the applicant. The

respondent challenged the said order in Criminal Appeal No.26/2024, which was allowed by the learned Appellate Court, and the relief granted by the Trial Court was set aside. Aggrieved thereby, the applicant has preferred the present revision.

3. Learned counsel for the applicant submits that, as recorded by the learned Trial Court in paragraph 8 of its order, the Project Officer had reported that domestic violence was proved and that the amount of Rs.3,000/- towards residence and other expenses was appropriate. He further submits that the monetary relief of Rs.2,000/- towards daily expenses was also justified, as the applicant had been forcibly ousted from her matrimonial home. However, the learned Appellate Court, without any sufficient reason, set aside the order passed by the learned Trial Court. Hence, it is prayed that the present revision may be allowed and the order dated 21.08.2024 passed by the learned JMFC, Katghora, District Korba in CIS No.15/2018 be restored.

4. *Per contra*, learned counsel for the respondent submits that, from the finding recorded by the learned Trial Court in paragraph 11, it is evident that there was no allegation of physical harassment against the respondent. He submits that the finding of the learned Trial Court was mainly based on the statement of the applicant Sita Bai (PW-1), who herself stated that no physical cruelty was committed against her. Her father had come and taken her back to her parental home. He further submits that the learned Appellate Court has rightly reappreciated the evidence available on record and, from paragraph 29 onwards, recorded a finding that the allegations made by the applicant were vague and were not supported by any specific date or particular incident during her matrimonial life. He further submits that the

allegations were made only after the applicant had left the matrimonial home in the year 2017 and had lodged an FIR under Section 498-A of the IPC. He further submits that in the criminal case lodged by the applicant/wife under Section 498-A of the IPC, the respondent/accused has been acquitted. He, therefore, submits that the learned Appellate Court has rightly set aside the order passed by the learned Trial Court and that the present revision deserves to be dismissed.

5. Heard learned counsel for the parties and perused the material available on record.

6. In order to appreciate the controversy, the evidence of the applicant and her witnesses requires consideration. The applicant, Smt. Sita Bai (PW-1), stated that she was subjected to harassment by the respondent and his family members. She further alleged that when she was unwell, the respondent gave her nine tablets of Nicip pills, due to which she experienced difficulty in breathing. Her father took her to the Community Health Centre, Katghora, for treatment, where the respondent also accompanied them but later left. She further stated that she has been residing at her parental home with her two children.

7. Malikram (PW-2), father of the applicant, supported her version regarding the matrimonial dispute and stated that he had gone to the matrimonial house along with other persons to resolve the dispute. He also supported her evidence regarding the visit to the hospital. Ramesh Kumar (PW-3) stated that the respondent had told them that the applicant could not live with them. He also supported the evidence regarding the applicant being taken to the hospital. Although neither witness had personally seen the respondent administering the tablets,

their evidence lends some support to the applicant's version regarding the matrimonial dispute and the circumstances in which she was residing separately. Similarly, Lakshmichand (PW-4) admitted that the applicant had been granted maintenance of Rs.6,000/- per month for herself and her two children by the Family Court.

8. On the other hand, the respondent admitted his marriage with the applicant, their cohabitation and the fact that they have two children, but denied the allegations of harassment and domestic violence. The defence witnesses also denied the allegations made against the respondent and his family members.

9. From the above evidence, it is evident that no witness has stated that he or she personally saw the respondent administering Nisip pills to the applicant by respondent. However, the applicant has also alleged harassment by the respondent and his family members. The evidence of PW-2 and PW-3 provides some support to the applicant's version regarding the matrimonial dispute and the circumstances in which the applicant was taken to the hospital. Therefore, the absence of direct evidence regarding the administration of tablets cannot, by itself, be a ground for rejecting her entire claim under the DV Act. The Court is required to consider the evidence as a whole and determine whether the acts alleged by the applicant fall within the definition of domestic violence under the Act.

10. The applicant's case also finds support from the report of the Project Officer, as referred to by the learned Trial Court in paragraph 8 of its order. According to the applicant's counsel, the report stated that domestic violence was proved. The report is a relevant piece of

material and was required to be considered along with the oral and documentary evidence. Although the report cannot, by itself, conclusively establish domestic violence, it cannot be ignored while examining the reasons recorded by the learned Trial Court. The evidence of the applicant, the statements of PW-2, PW-3 and PW-4, and the report of the Project Officer were required to be considered together.

11. It is also necessary to consider the submission that the allegations made by the applicant were vague and were not supported by specific dates. The absence of specific dates of every alleged incident cannot, by itself, be a sufficient ground to reject the applicant's claim without considering the other evidence. The statements of PW-2, PW-3 and PW-4 support the applicant’s version regarding the matrimonial dispute and the circumstances in which she received medical treatment. The evidence must be considered as a whole.

12. The acquittal of the respondent in the criminal proceedings under Section 498-A of the IPC is also a relevant circumstance. However, such acquittal does not, by itself, determine the applicant's entitlement to relief under the DV Act. The nature and purpose of the proceedings are different, and the applicant's claim under the DV Act must be examined on the basis of the evidence and circumstances relevant to those proceedings. Likewise, the fact that maintenance of Rs.6,000/- per month has been awarded to the applicant and her two children by the Family Court is relevant while considering her claim for monetary relief. However, the existence of a maintenance order does not automatically determine her entitlement to every other relief under the

DV Act. The nature of each relief and the reasons for granting it must be considered separately, while also ensuring that there is no impermissible duplication of monetary benefits.

13. The learned Trial Court had granted rent allowance of Rs.3,000/- per month under Section 19, monetary relief of Rs.2,000/- under Section 20 and compensation of Rs.2,000/- under Section 22 of the DV Act. While setting aside these reliefs, the learned Appellate Court was required to consider the evidence of the applicant and her witnesses, the report of the Project Officer and the reasons recorded by the learned Trial Court. The mere fact that certain allegations were not supported by direct evidence did not dispense with the need to examine the remaining evidence and the applicant's claim for the reliefs granted to her.

14. On an overall consideration of the material discussed above, this Court is of the view that the evidence required a comprehensive assessment in the context of the applicant's claim under the DV Act. The allegations of harassment and domestic violence levelled by the applicant (PW-1) have been supported by PW-2, PW-3 and PW-4 in their affidavits filed under Order XVIII Rule 4 of the CPC. No challenge was made to the said evidence of these witnesses during their cross-examination. In a case under the Protection of Women from Domestic Violence Act, the applicant is not required to prove the allegations beyond reasonable doubt, as is required in criminal proceedings; rather, the same are required to be proved on the basis of preponderance of probabilities. The respondent has not adduced any evidence to rebut the allegations of domestic violence made by the

applicant. Further, the report of the Project Officer also lends support to the applicant's allegations. Learned Trial Court, having regard to the nature and quality of the evidence adduced by the parties, coupled with their conduct, rightly granted relief to the applicant under Sections 19, 20 and 22 of the DV Act, as mentioned in the preceding paragraph. However, the learned Appellate Court, without properly appreciating the oral and documentary evidence available on record in its proper perspective, set aside the order passed by the learned Trial Court, which is not legally sustainable and is liable to be set aside.

15. Consequently, the impugned judgment dated 04.07.2025 passed by the learned I Upper Sessions Judge, Katghora, District Korba (C.G.), in Criminal Appeal No. 26/2024 is hereby set aside. The order dated 21.08.2024 passed by the learned Judicial Magistrate First Class, Katghora, District Korba, in CIS No.15/2018 (*Sita Bai v. Suryakant Kashyap and Others*), granting rent allowance of Rs.3,000/- per month under Section 19, monetary relief of Rs.2,000/- under Section 20 and compensation of Rs.2,000/- under Section 22 of the Protection of Women from Domestic Violence Act, 2005, is hereby restored.

16. Accordingly, the present Criminal Revision is **allowed**.

17. Pending interlocutory application(s), if any, stands disposed of.

Sd/-
(Naresh Kumar Chandravanshi)
Judge

Rukhsar