



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

CRIMINAL WRIT PETITION NO. 823 OF 2025.

Bhagyashri Vishal Deshmukh and others.

-VERSUS-

Vishal Ghanshyam Deshmukh and others.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

Shri V.N. Morande, Advocate for the Petitioner.
Shri S.G. Karmarkar, Advocate for the Respondent.

CORAM : M.M. NERLIKAR, J.

DATE : JANUARY 07, 2026.

Heard.

2. The petitioner is challenging the order dated 09.01.2025 passed below Exh.5 in P.W.D.V. Case No.1/2024, by the learned Judicial Magistrate First Class, Gadchiroli, as also the judgment and order dated 01.04.2025 in P.W.D.V.A.No.3/2025 by the Additional Sessions Judge, Gadchiroli.

3. It appears that the marriage between the petitioner No.1 and respondent No.1 took place on 19.12.2019. It was a

second marriage for the applicant no.1, out of the said wedlock, two daughters were born – first in April 2020 and second in April 2023. However, there arose a rift between the parties, pursuant to which Domestic Violence proceedings under Section 12 of the Domestic Violence Act was filed by the petitioner no.1 – wife. An application under Section 23 of the said Act, was also filed seeking grant of interim maintenance and for protection of residence. This application came to be rejected by the trial Court vide order dated 09.01.2025. Even the revision filed was dismissed vide order dated 01.04.2025, hence this petition.

4. The learned Counsel appearing for the petitioners submits that there is ample evidence on record to show that the marriage had taken place between the applicant no.1 and respondent no.1, and out of said wedlock, two daughters are born. Birth certificates of both daughters are also placed on record wherein in the column of father's name, name of respondent no.1 appears. He further submits that when family planning operation was conducted, and in the said papers, name of respondent no.1 is shown as husband of applicant

no.1. He therefore, submits that there is relationship in the nature of marriage between the parties and thus, section 3 of the D.V. Act would get attracted, however, when the interim application under Section 23 was decided by the trial Court, instead of considering the prima facie case, the Court below went on to consider the validity of marriage. He further argued that infact definition of Section 2[f] of the D.V. Act which defines domestic relationship, includes a relationship in the nature of marriage. He lastly submitted that the learned trial Court has given a go-bye to other evidence also and thereby committed gross error.

5. On the other hand, the learned Counsel appearing for respondents submitted that admittedly the trial Court has not considered other documentary evidence, and therefore, requests to remand the matter for fresh consideration.

6. After considering the rival submissions of the parties, it appears that there is ample evidence on record. The Court below ought not to have considered the impact of validity of marriage while deciding the interim application. The Court below ought to have seen the documentary evidence

which is placed on record by the petitioners, prior to recording a finding declining grant of interim maintenance. The trial Court has ignored all these aspects and has arrived at a wrong conclusion. Unless and until evidence is led by the parties, it is very difficult to consider the rival submissions of the parties. Therefore, considering this fact, I am of the opinion that a case for remand is made out by the petitioners. The impugned orders dated 09.01.2025 and 01.04.2025 are accordingly quashed and set aside. The matter is remanded back to the trial Court with a direction to decide the same afresh by considering the other documentary evidence placed on record. The learned Counsel for the respondents submits that he will also place affidavit in respect of assets and liabilities on record, which he is permitted to do so.

7. At this juncture, the learned Counsel for petitioners submits that till the interim application is decided, some provisional arrangement for maintenance must be made.

8. Considering the fact which has surfaced on record, I am of the view that some monetary benefit is required to be given to the petitioner -wife, considering the fact that two

daughters are also living with her. Hence, an amount of Rs.5000/- per month is granted to them as interim arrangement which would be payable by the respondent no.1 from this month, till the decision is arrived on the interim application by the trial Court.

9. Criminal Writ Petition is accordingly disposed of with above directions.

JUDGE