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**IN THE COURT OF
4TH ADDITIONAL DISTRICT AND SESSIONS JUDGE,
JAMNAGAR**

CRIMINAL APPEAL NO 625 OF 2025

EXH. 9

Rushikaben W/o Jayesh Bharatbhai Dabhi,
D/o Narsibhai Bhikhabhai Sonagra,
Aged: 22 years, Occupation : Housewife,
Residing at Ramnagar, Street No.3,
Radar Road, Gokulnagar, Jamnagar. ... Appellant.

Versus

- (1) Jayesh Bharatbhai Dabhi,
Aged : 25 Years,
Occupation: Manufacturer and
vendor of soft-drinks.
- (2) Bharatbhai Karsanbhai Dabhi,
Aged: 22 Years, Occupation: Construction.
- (3) Shantaben Bharatbhai Dabhi,
Aged: 50 Years, Occupation: Labour.
- (4) Divyaben Bharatbhai Dabhi,
Aged: 22 Years, Occupation: House-work.
- (5) Harishbhai Devshibhai Dabhi,
Aged: 45 years, Occupation: Cold Drinks.

All Residing at: Shiv Nagar, Street No.7,
Near Kachli Factory. Dharawali Street,
Gokul Nagar, Radar Road, Jamangar.

- (6) The State of Gujarat,
Through: The District Government Pleader,
Lal Bunglow, Jamnagar. ... Respondents

Appearance:

Learned Advocate Mr AV Parmar, for the appellant.

Learned Advocate Mr. JK Gohil for the respondent Nos 1 to 5.

Learned Additional Public Prosecutor Mr. PJ Parmar
respondent No 6 - State.

**APPEAL UNDER SECTION 29 OF THE DOMESTIC
VIOLENCE ACT**

J U D G M E N T

1. This is an appeal under Section 29 of the Protection of Women from Domestic Violence Act, 2005 (for short, *the Act*) challenging the impugned judgment and order dated 15-11-2025 passed by the learned Additional Judicial Magistrate, First Class, Jamnagar and, thereby, praying for enhancing the amount of maintenance from Rs 1,500/- pm to Rs 25,000/- pm and for granting the relief of amount of rent as well as other reliefs from the respondents, as claimed by the appellant in her application.

2. The notice of this appeal is served upon the respondents. *Whereas* learned Advocate Mr JK Gohil has

entered his appearance for respondent Nos 1 to 5, learned Additional Public Prosecutor Mr PJ Parmar has entered his appearance for respondent No 6 - State.

3. In support of his appeal, learned Advocate Mr AV Parmar for the appellant-wife has made the following submissions:

- (a) The learned Trial Court has erred in awarding only Rs 1,500/- pm only as maintenance. Such a small amount of maintenance is very meagre considering the present day circumstances *inasmuch as* it is not possible to maintain oneself with such amount. Respondent No 1 is earning Rs 50,000/- pm from his business of manufacturing and selling cold drinks. His father is earning Rs 60,000/- pm from the construction business and his mother is earning Rs 10,000/- pm from the business of manufacturing soda and cold drinks. Thus, respondent No 1 has no other responsibility except to maintain the appellant. During the cross-examination, respondent No 1 has clearly admitted that he has not stated in his reply as well as in his affidavit that he has the liability to maintain any person other than his wife. He has also admitted that his parents are earning their income. Despite this admission, the learned Trial Court has granted maintenance of only Rs 1,500/- pm. Therefore, an order enhancing the amount of

maintenance to Rs 25,000/- or other amount as deemed fit is required to be passed in favour of the appellant – wife.

- (b) The learned Trial Court has erred in not passing any order with respect to granting *Stridhan* in favour of the respondent-husband. It has come out in the cross-examination of the respondent-husband that he has voluntarily stated that, on the last occasion, the brother and the father of the applicant had come to take the applicant back to the matrimonial home and they took her on a motorcycle. He has also stated that the brother and father of the applicant had come on a motorcycle and the mother had come by walking and thereafter they returned with the applicant. It has also come out in the cross-examination that the respondent-husband has admitted that the applicant had brought *Stridhan*, namely one *pati palang*, a wooden cupboard and clothes. It is further admitted by the respondent-husband that he had given a gold nose ring, earrings as well as a silver anklet and silver chain. With reference to these admissions made in cross-examination, it is made out that the articles of *Stridhan* were very much lying in the house of the respondent-husband. Therefore, when the appellant-wife had left for her parental home, it was not

possible for her to carry so many items of *Stridhan* with her. In this context, therefore, it cannot be said that the appellant-wife had taken with her all the items of *Stridhan* while returning to her parental home. Therefore, the order of Stridhan is required to be passed in favour of the appellant – wife.

- (c) The learned Trial Court has erred in not passing any order granting any amount of rent, although the same was specifically prayed for, and it ought to have been granted when the act of domestic violence was very much evident. Therefore, the order of rent is also required to be passed in favour of the appellant -wife.
- (d) In view of the aforesaid submissions made, it is submitted that the impugned order is required to be interfered with and the orders, as prayed for, be passed.
4. On the other hand, learned Advocate Mr JK Gohil for the respondent-husband has made the following submissions:
- (a) If the cross-examination of the appellant-wife is taken into consideration, at the outset, she has admitted that, if the respondent-husband gives divorce, she is ready and willing to take divorce from him. Therefore, the present appeal under the provisions of the Act is merely filed to compel the respondent-husband to give divorce and it does not

disclose any cause for which she is entitled to claim relief under the provisions of the Act. Thus, it can be said that the appellant-wife has not been neglected as claimed in her application.

- (b) The respondent-husband does not have any plant or machine for manufacturing soda or cold drinks. The appellant-wife has also admitted that she has not seen any soda manufacturing machine or plant in the house of the respondent-husband. She has further stated that such a machine would be quite big in size. The respondent-husband is selling soda on a cart and is earning about Rs 6,000/- pm to Rs 7,000/- pm against Rs 10,000/- pm, as claimed by the appellant-wife. The respondent-husband admits his liability to maintain the appellant-wife, but he is not in a position to pay the amount of maintenance of Rs 25,000/- as claimed by the appellant-wife in her application. Therefore, the learned Trial Court has rightly granted maintenance of Rs 1,500/- pm to the appellant-wife.
- (c) In her cross-examination, the appellant-wife has stated that when she left the matrimonial home she had taken all her *Stridhan* with her. Under the circumstances, when the respondent-husband does not have any *Stridhan* in his possession, the learned Trial Court has rightly come to the conclusion of not

granting any relief in respect of the claim of *Stridhan*.

- (d) The deposition of the appellant-wife contains contradictions. In her cross-examination, she has stated that she pays rent of Rs 6,000/- to the landlord. She has also stated that she is staying in the house of Bhaveshbhai Patel, which is located at Radar Road, Gokul Nagar, Dharavari Street. However, when she was confronted with her affidavit in examination-in-chief, she had stated that she was living a deserted life in her parental home. Thus, this is a false statement. She has also stated that the house in which she presently resides is situated within a calling distance from her matrimonial home and parental home. She has further admitted that there is no rent agreement in respect of the said house. Therefore, the appellant-wife is not entitled to claim any amount towards residential accommodation. Hence, the learned Trial Court has rightly refused to grant any amount towards rent for residential accommodation to the appellant-wife.
- (e) In view of the aforesaid submissions, it is submitted that the learned Trial Court, after considering all the aspects of the matter, has passed a just and proper order and, therefore, the same does not require

interference by this Hon'ble Court in the present appeal. Therefore, the appeal may be dismissed.

5. In reply, learned Advocate Mr Parmar for the appellant-wife has submitted that the allegation made by the respondent-husband that the appellant-wife has filed the proceedings only to obtain divorce is incorrect. He has submitted that the learned Trial Court has believed that the respondent-husband had indulged in acts of domestic violence against the appellant-wife and, therefore, the learned Trial Court was pleased to grant relief under the provisions of the Act. He has, therefore, submitted that the contention raised by the learned Advocate for the respondent-husband does not help the respondent-husband and deserves to be rejected.

6. Heard learned Advocate for both the sides. Perused the records and proceedings of Criminal Miscellaneous Application No. 3075 of 2024. Considering the provision of applicable to the present appeal.

7. At the outset, it is required to be stated that, after appreciation of evidence, the learned Trial Court has come to a proper finding that the appellant – wife was subjected to domestic violence by respondent – husband and his parents and, therefore, the reliefs, as indicated in the impuged order, came to be granted, and being aggrieved with the limited extent to which the reliefs are either granted or refused, she is in appeal before this Court.

8. On the basis of submissions of learned Advocates

for both the sides, the following points arise for my determination:

- (a) Whether the amount of maintenance granted to the appellant-wife is required to be enhanced? If yes, to what extent?
- (b) Whether the relief of *Stridhan* is required to be granted in favour of the appellant – wife? If yes, what are the articles required to be so delivered to her?
- (c) Whether the relief of amount of rent is required to be granted to the appellant-wife towards her residential accommodation? If yes, what is such amount?
- (d) What order?

9. My Findings for the reasons stated herein after are as under:

- (a) In the affirmative. The amount of maintenance is required to be enhanced from Rs 1,500/- pm to Rs 3,000/- pm.
- (b) In the affirmative. All such articles as shown in the final order.
- (c) In the affirmative. Rs 1,500/- pm is required to be granted as the amount of rent.
- (d) As per final order.

REASONS**POINT NOs (i)**

8. So far as the challenge to the order granting Rs 1,500/- pm as maintenance to the appellant–wife is concerned, the respondent–husband has not produced any material in support of his claim that his monthly income is around Rs 6,000/- to Rs 7,000/- pm. Even then, it appears that the learned Trial Court has assessed his income at Rs 6,000/- to Rs 7,000/- pm. It is the case of the respondent–husband that he is earning not more than Rs 7,000/- pm from the business of cold drinks. In this regard, it is required to be noted that he has not produced any evidence to support his claim. Therefore, I am of the view that the monthly income of the respondent–husband must be more than Rs 7,000/- and can reasonably be assessed at Rs 10,000/- pm. Thus, when the respondent–husband has not produced any material to support his claim of earning Rs 7,000/- pm, the said amount cannot be accepted at its face value. Further, it is the duty of the respondent–husband to come out clearly with supporting evidence regarding his income. In the present case, he has neither led any supporting oral evidence nor produced any documentary evidence to prove his income. Thus, when this Court finds that the income of the respondent–husband is Rs 10,000/- pm, it is just and proper that the amount of maintenance granted by the learned Trial Court be enhanced from Rs 1,500/- to Rs 3,000/- pm. As a result, the amount of maintenance granted to the

appellant–wife is required to be enhanced. **Therefore, Point No. (i) is answered in the affirmative, and the amount of maintenance stands enhanced from Rs 1,500/- pm to Rs 3,000/- pm.**

POINT No (ii)

9. On going through the order of the learned Trial Court, it is manifest that although the point relating to the Stridhan has been dealt with while discussing Point No. 4, no specific order has been passed with respect to the Stridhan. Therefore, when no specific order is passed with regard to the claim of Stridhan, it is to be presumed that the claim has been rejected. In its discussion, the learned Trial Court has held that the appellant–wife has claimed different articles of Stridhan as per the list at Exh. 5. It is observed that the appellant–wife has not come out with a clear case as to which of those articles were actually given to her and which of those articles were still in the possession of the respondent–husband. The learned Trial Court has also observed that both the parties have merely led oral evidence against each other, making allegations and counter-allegations with respect to this aspect, without making any attempt to lead cogent evidence. It is further held that, since it has not come on record as to which of the articles of Stridhan are still in the possession of the respondent–husband, it is not possible to grant any relief in favour of the appellant–wife. With these reasons, the learned Trial Court declined the relief.

10. In this regard, both the learned Advocates have

taken this Court through the evidence on record. With respect to this point, the following sub-points are required to be considered: (1) What are the articles claimed as Stridhan? (2) Whether such articles are in the possession of the respondent–husband?

11. So far as the identification of the articles of Stridhan is concerned, the appellant–wife has produced the list at Exh. 5. In her affidavit of examination-in-chief, she has narrated the various articles of Stridhan which are alleged to have been taken away by the respondent–husband. There is no cross-examination on this aspect by the learned Advocate for the respondent–husband. As against this, it appears that the defence of the respondent–husband is that the appellant–wife has taken all the articles of Stridhan to her parental home.

12. Further, if the cross-examination of the respondent–husband is considered, he has stated that at the time of marriage, the appellant–wife had brought one peti palang, a wooden cupboard, and clothes with her, and that she had not brought any vessels or gold or silver ornaments. He has also stated that, at the time of marriage, his family had given ten to twelve pairs of clothes, gold nose-rings, ear-rings, as well as silver anklets and a silver chain. On the basis of this statement in the cross-examination of the respondent–husband, it becomes clear as to what articles had come into the possession of the appellant–wife. It can thus be held that, at the time of marriage, the appellant–wife received one peti palang, a wooden cupboard, ten to twelve pairs of clothes, gold nose-rings, ear-rings, as well as silver

anklets and a silver chain. **Therefore, sub-point No. (1) is answered accordingly.**

13. Now, the next question is whether these items are in the possession of the respondent–husband. Again, if we consider the cross-examination of the respondent–husband, he has voluntarily stated that, on the last occasion when the appellant–wife left her matrimonial home, her brother and father had come on a motorcycle, whereas her mother had come on foot, and they had taken the appellant–wife in that manner. He has also admitted that, on that day, the brother and father returned on the motorcycle, while the mother went on foot.

14. It is the case of the appellant–wife that, in such circumstances, it was highly improbable for them to have carried such articles with them. In my view, there is substance in this contention. The appellant–wife could not have taken huge articles like a peti palang and a cupboard, as, considering their size, such articles would require a vehicle for transportation. It is, therefore, held that these articles are in the custody of the respondent–husband.

15. It is further the case of the appellant–wife that smaller articles like clothes, gold nose-rings, ear-rings, as well as silver anklets and a silver chain are also in the custody of the respondent–husband. A perusal of the examination-in-chief of the respondent–husband indicates that he has stated that, on 10-11-2024, the appellant–wife had quarrelled with him and left the matrimonial home. In my view, when the appellant–wife left the

matrimonial home on account of alleged harassment, it is difficult to believe that she would have carried with her all the items of Stridhan at that time. Though a reference is made to the incident dated 09-11-2024, the same is too remote to connect with any alleged act of taking away the articles.

16. In view of the above discussion, I find that the articles of Stridhan, namely one peti palang, a wooden cupboard, clothes, gold nose-rings, ear-rings, as well as silver anklets and a silver chain, are still in the possession of the respondent–husband. **Therefore, sub-point (ii) is answered accordingly.**

17. Considering the aforesaid reasons, the relief of Stridhan is required to be granted in favour of the appellant–wife. **As a result, Point No. (ii) is answered in the affirmative. The respondent–husband is directed to return all the aforesaid articles to the appellant–wife within a period of one month from the date of this order.**

POINT No (iii)

18. It is argued that the learned Trial Court has not granted any amount towards rent to the appellant–wife. This issue has also been dealt with under Point No. 4 by the learned Trial Judge. The learned Trial Judge has referred to the version emerging from the application as well as the depositions of the parties, indicating that all the respondents are residing together and that the appellant–wife has neither prayed for permission to reside in the house of her husband nor shown any willingness to stay in the joint family of the respondent–husband. It is further

noticed that the appellant–wife has prayed in her application that the Hon’ble Court may be pleased to grant Rs 6,000/- towards rent or, in the alternative, to direct the respondent–husband to provide accommodation to her. The learned Trial Judge has observed that, considering the evidence on record, it is not the case of the appellant–wife that she intends to reside with the respondent–husband; that she has not led any evidence to show that the respondent–husband owns any house in his name; that she has stated in her cross-examination that she is required to pay rent to Bhaveshbhai Patel, the owner of the house situated at Gokul Nagar, Radar Road, Dharavari Street, where she claims to be residing alone in a rented premises; that she has admitted in her cross-examination that her statement in the affidavit of examination-in-chief that she is residing with her parents is false; that the details of her monthly expenses, required to be filled in Item No. 7 of the income affidavit submitted in accordance with the decision of the Hon’ble Supreme Court, are left blank; that she has not entered into any rent agreement; and that she has not examined any witness to prove payment of rent. In view of these circumstances, the learned Trial Court found it difficult to believe that the appellant–wife was actually paying any rent and, on the contrary, drew a presumption that she was residing in her parental home. It was also noted that it was not her case that her father himself was residing in rented accommodation. Taking into account all these circumstances, the learned Trial Court held that the relief of rent was not justified and accordingly rejected the said prayer.

19. I have considered the aforesaid findings of the learned Trial Court. Upon careful consideration, I find that the learned Trial Court has primarily relied upon the contradictions appearing in the evidence of the appellant–wife, namely that on the one hand she has stated that she is residing in a tenanted premises, whereas on the other hand she has stated that she is residing with her parents. Even assuming that such contradictions exist, in my view, the same would not, by themselves, disentitle the appellant–wife from claiming rent from the respondent–husband. This is because the right of residence is incidental to an act of domestic violence. If an act of domestic violence is established, the wife is compelled to leave her matrimonial home. In such circumstances, if she is residing with her parents, that by itself cannot be a ground to deny her rent, which she would otherwise have been required to pay had her parents not permitted her to stay with them or had they not been alive. Thus, merely because the parents have permitted their daughter to reside with them cannot be a valid ground to deny rent, which is otherwise payable by the respondent–husband on account of the domestic violence inflicted upon the appellant–wife. Therefore, I do not accept the reasoning of the learned Trial Court that the appellant–wife is not entitled to rent merely because she is residing with her parents. It is true that the appellant–wife has not produced any rent agreement; however, that fact alone would not have a significant bearing on the question as to whether rent should be granted.

20. So far as the quantum of rent is concerned, the appellant–wife has not produced any material to establish that the prevailing rent in the locality where she resides is Rs 6,000/- per month. In my view, considering that the monthly income of the respondent–husband has been assessed at Rs 10,000/- per month, out of which he is required to pay Rs 3,000/- per month towards maintenance, leaving him with Rs 7,000/-, it would be just and proper to award Rs 1,500/- per month towards rent to the appellant–wife, thereby leaving Rs 5,500/- with the respondent–husband to meet his own expenses as well as those of his parents. Accordingly, I hold that the appellant–wife is entitled to rent towards her residential accommodation. ***As a result, Point No. (iii) is answered in the affirmative. The appellant–wife is held entitled to receive Rs 1,500/- per month towards rent from the respondent–husband.***

POINT No (iv)

21. In the end, the following order is passed in answer to point No (iv):

ORDER

- (1) The appeal is partly allowed.
- (2) The impugned judgment and order dated 15-11-2025 passed by the learned Additional Judicial Magistrate, First Class, Jamnagar Criminal Miscellaneous Application No 3075 of 2024 is modified as indicated hereinafter.

- (3) The amount of maintenance payable to the appellant–wife stands modified from Rs 1,500/- to Rs 3,000/- pm for the appellant –wife from the date of the original application.
- (4) The respondent-husband is directed to return the articles of *Stridhan* like one *peti palang*, wooden cupboard, some clothes, gold nose-rings, ear-rings as well as silver anklets and silver chain to the appellant-wife within a period of one month from the date of this order.
- (5) The appellant-wife is entitled to claim Rs 1,500/- as the amount of rent for her residential accommodation from the respondent-husband from the date of the original application. The respondent-husband is directed to pay the rent accordingly.
- (6) The record and proceedings of CRMA/3075/2024 be sent back to the learned Trial Court along with the copy of this judgment and order.

Pronounced in the open Court today i.e.
2nd May, 2026.

Place : JAMNAGAR (SHAMNATH CHANDRAMOHAN VEMULLA)
4th Additional District And Sessions Judge.

Date : 02-05-2026

Code No. GJ00818