



Presented on : 11.03.2020.

Registered on : 11.03.2020.

Decided on : 10.03.2026.

Duration : 05 Y 11 M 29 D.

IN THE COURT OF ADDITIONAL SESSIONS JUDGE, BULDHANA,
DISTRICT BULDHANA.

{Presided Over by A.G. Santani}

CRIMINAL APPEAL NO. 17 OF 2020.EXHIBIT NO. 41.

- | | |
|-------------------------------------------------------|---------------------------|
| 1. Hemantsing Bharatsing Rajput, | } |
| Aged : 39 years, Occupation : Service, | } |
| 2. Bharatsing Padamsing Rajput, | } |
| Aged : 71 years, Occupation : Retired, | } |
| 3. Bali Bharatsing Raput, | } |
| Aged : 62 years, Occupation : Household, | } |
| Nos. 1 to 3 Residing at Vidyut Colony, Jalgaon, | } |
| Tq. and Distt. Jalgaon (Khandesh). | } |
| 4. Rohini Radhesham Rajput, | } |
| Aged : 42 years, Occupation : Household, | } |
| Residing at Disaster Management Unit and | } |
| CCSRS Department, Municipal Corporation of | } |
| Greater Mumbai, Anex Building, 2 nd Floor, | } |
| CST Mumbai - 400 001. | } |
| 5. Dipali Kuldip Solanke, | } |
| Aged 37 years, Occupation : Household, | } |
| Residing at Govind Riksha Stop, Pimparala Road, | } |
| Housing Society, Shahu Nagar, Jalgaon Khandesh | } |
| 6. Ganga Padamsing Rajput, | } |
| Aged 60 years, Occupation : Household, | } |
| Residing at District Police Colony, Near Bus Stop, | } |
| Jalgaon, Tq. and Distt. Jalgaon (Khandesh). | } |
| 7. Jaysing Padamsing Rajput, | } |
| Aged 40 years, Occupation : Service, | } |
| Residing at Police Colony, Pratap Nagar, Near | } |
| Bus Stop, Jalgaon, Distt. Jalgaon (Khandesh) | }..... <u>APPELLANTS.</u> |
| At Present : D.S.P. Office, Gadchiroli. | }(Ori. Non-applicants). |

V/S.

- | | |
|-----------------------------------------------|---------------------------|
| Nishigandha Hemantsing Raput, | } |
| Aged 31 years, Occupation : Private. Service, | } |
| C/o, Nandkishor Indrasing Rajput (Father) | } |
| Residing at Krida Sankul Road, Wawre Lay-Out, | }..... <u>RESPONDENT.</u> |
| Buldhana, Tq. and Distt. Buldhana. | }(Original Applicant). |

APPEAL UNDER SECTION 29 OF THE PROTECTION OF WOMEN
FROM DOMESTIC VIOLENCE ACT, 2005.

APPEARANCE :

Mr. Rahul D. Meher, Ld. Advocate for the Appellants/ Non-applicants.

Mrs. Chaya S. Jadhao, Ld. Advocate for the Respondent/Applicant.

J U D G M E N T.

DATED : 10.03.2026.

01. Being aggrieved by the Judgment dtd. 05.02.2020, passed by the Ld. Judicial Magistrate First Class (Court No.2), at Buldhana, in Application No. 06/2018, filed U/sect. 12 of the Protection of Women from Domestic Violence Act, 2005 ('the Act'), thereby, partly allowing the application and directing non-applicant No.1 to pay Rs.3,000/- per month as the maintenance, Rs.5,000/- per month as rent for securing accommodation (both w.e.f. 05.01.2018), Rs.50,000/- as compensation and Rs.2,000/- as litigation expenses to the respondent, the appellants preferred this appeal, U/s. 29 of the Act. Originally, they are the non-applicants and the respondent is the applicant before Ld. Trial Court. For the brevity, they are referred to as per their nomenclatures before Ld. Trial Court.

02. Briefly, in view of the Report, submitted by the Protection Officer under the said Act, the applicant initiated her grievance before the Trial Court, contending that on 17.04.2016, she got married with non-applicant No. 1 and their marital knot was still existing. The rests of non-applicants were her in-laws. Since beginning, they harassed her on the count of dowry and used to ill-treat on one reason or the other. In marriage, they were given a dowry of Rs. 7 Lakh, where from, they purchased gold. On their demand, they were provided with Ford Fiago Car worth Rs.9 Lakh. More so, her father incurred the other expenses of her marriage. However, still, they did not treat her nicely. Further, she found that, non-applicant No.1 was in relationship with one other girl and despite disclosing this fact to non-applicant Nos. 2 and 3, they were not ready to listen to her and on that count, they assaulted her.

She was threatened with dire result as some of their relatives was in Police. That apart, she was repeatedly abused in an obscene language and was not allowed to attend her B.Sc. Computer – III Examinations, scheduled on 28.02.2017. More so, even non-applicants Nos. 4 and 5 used to encourage non-applicants Nos. 1 to 3 to harass her. Lastly, they demanded Rs. 5 Lakh for securing approval for the job of non-applicant No.1 and to fulfill this demand, expelled her from the house. Being fed up of their ill-treatments, she lodged the report in P.S., Ramanand, Jalgaon, on 06.09.2017. However, she was not attended there and hence, she was compelled to approach the Grievance Redressal Cell and thereat, she was asked to file this proceeding, under the said Act.

03. Assailing her contentions, non-applicants Nos. 1 to 3, 5 and 6 filed their common reply (Exhibit 13). They admitted their relations with the applicant and denied all her adverse contentions. They contended that although, she was suffering from 'Epilepsy and Bipolar Disorder', this fact was concealed at the time of marriage. They were not intimated and kept in dark that she was undergoing treatment of Dr. Sanjay Warade, Nashik, Well Known Neuro Surgeon, since last 5 to 6 years from her marriage. On 09.07.2016, she also had an attack of the said disorder. Further, she was not capable for a sexual intercourse and to conceive the child. Hence, life of non-applicant No.1 was completely ruined. Since 17.04.2017, she was at her paternal house. On 15.02.2018, even they issued notice to her and she did not respond the same. Her father is the influential Contractor at Buldhana. She is the only daughter. On 16.08.2018, even, by her parents and the other relatives assaulted non-applicant No. 1. Since the marriage, she harassed them and therefore, this application needs to be rejected.

04. The applicant got examined herself, by filing her evidence on affidavit (Exhibit 17), and reiterated her contentions on oath. During her cross-examination, she admitted that, non-applicant Nos. 4 and 5 - Rupali and Dipali were married prior to her marriage and they were settled with

their in-laws. At the time of her marriage, non-applicant Nos. 1 to 3 were residing jointly. Likewise, non-applicant No.6 was residing at Jalgaon. Her cross-examination further shows that she never lodged any police report, pertaining to the alleged harassment at the hands of the non-applicants. She admitted that, since 28.02.2017, she had been to her maternal house to attend her exams, which was scheduled on 01.03.2017. That apart, from 28.02.2017 till 05.09.2017, she never lodged any police report as against the non-applicants. She was acquainted with Dr. Sanjay Warade, Nashik. However, she denied that she was under his treatment for such disorder. When she was referred to with such Medical Papers, she averred that the same were pertaining to her accident. She admitted that on 15.02.2018, the non-applicants issued said notice and she did not reply the same. She further conceded that in the said notice, they alleged about her 'Disorder'. However, that apart, she denied all their other suggestions. Likewise, the non-applicants examined non-applicant No.1 at Exhibit 30. He supported their defence from the dock. During cross-examination, he admitted that he was serving as a Junior Teacher at P.O. Nahata College, Bhusawal, and was drawing his salary of Rs. 54,000/-. However, that apart, he denied all the suggestions, adverse to his interest. That apart, the parties placed the respective sets of documents.

05. On merits, having appreciated the rival pleadings and the evidence, Ld. Trial Court partly allowed this application, granting the maintenance of Rs. 3,000/-, rent of Rs. 5,000/- (both on monthly basis w.e.f. 05.01.2018), a compensation of Rs.50,000/- and litigation costs of Rs.2,000/- to the applicant. While passing the impugned Judgment, the Court observed that barring her assertions, this applicant failed to substantiate that all the non-applicants allegedly assaulted, threatened and subjected her to physical violence. However, in view of the scope of the term of 'Domestic Violence', as defined U/s. 3 of the said Act, it found that non-applicant No. 1 subjected her with 'mental abuse'. The

Court opined that there was no material to infer such violence at the hands of non-applicants Nos. 2 and 3. Hence, this restricted monetary relief was granted only as against non-applicant No.1. Considering the fact that the applicant failed to substantiate the physical violence and abuse, even the relief of Protection Order was discarded. In the result, the application was allowed only against non-applicant No.1, he being her husband, and rest of the non-applicants were exonerated from the proceeding. In Paragraph 13 of the Judgment, the Court also referred to the pursis (Exhibit 16) filed by the applicant, thereby, 'not-pressing' this application as against non-applicants Nos. 4 and 7. Moreover, it is not the applicant's contention that she ever questioned exoneration of rest of the non-applicants from this proceeding, by preferring appeal. Being so, even, there was no occasion for them to file this Appeal.

06. Heard Mr. Meher, Ld. Advocate for the non-applicants. He contended that as the applicant was already granted the maintenance, in Petition No. E-54/2018, filed vide Sect. 125 of the Code of Criminal Procedure, 1908, (the Cr.P.C.), this fact was required to be considered by Trial Court. Specially when, the Order granting such a maintenance was dtd. 06.08.2019 and this impugned Judgment was passed on dtd. 05.02.2020. Moreover, the applicant ought to have disclosed this fact before the Ld. Trial Court. Thus, now, the relief granted in her favour needs to be adjusted. More so, presently, in view of the enhancement in her favour, granted in Criminal M.A. No. 01/2023, dtd. 06.07.2023, she is getting Rs. 15,000/ per month as maintenance. Being so, she is not entitled for separate maintenance in this proceeding. In support of his submission, he relied upon Rajnish Vs. Neha, (2021 ALL MR (Cri.) 1172 (SC)). Also gone through the written notes (Exhibit 30), filed by the non-applicants on merits, contending that observations of Ld. Trial Court that non-applicant No.1 was earning Rs.78,469/- on the basis of the salary extract (Exhibit 21) went completely wrong. For, this figure

was including Rs. 22,378/- as arrears of his salary. In this way, he was getting Rs.56,091/- only. Simultaneously, the applicant concealed this fact while filing the application for grant of a maintenance U/s. 125 of the Cr.PC.. That apart, her Counsel made wrong statement before the concerned Court that she was not getting the maintenance under any other provisions of Law. Additionally, even the applicant deliberately concealed her gainful employment with Mahatma Jyotiba Fule College at Buldhana. In this regard, the non-applicant placed the letter, issued by the said College, dtd. 26.09.2023, as per list Exhibit 22, informing that she restrained the said School Administration from sharing salary details. That apart, they filed salary extracts of non-applicant No.1 for the period from March, 2018 to September, 2025, at list (Exhibit 26).

07. Heard Mrs. Jadhao, Ld. Counsel for the applicant. Like the non-applicants, the applicant submitted her written notes (Exhibit 34) on the merits and contended that they falsely alleged her Epilepsy and Bipolar disorder, which they couldn't prove before the said Court. Non-applicant No.1 is getting salary of Rs. 54,000/. He was never inclined to disclose his earnings, which he was needed U/s. 106 of the Indian Evidence Act. Therefore, there was no substance in his grievance that the extract (Exhibit 21) included arrears of his salary. For her gainful employment, the applicant filed Certificate, issued by the said College, for the period from September, 2021 to August, 2025, with the remark that since 01.09.2025, she wasn't employed with the College. Further, she filed the said extract (Exhibit 21), which formed the basis for the Ld. Trial Court while deciding quantum of maintenance.

08. The points for determination, along-with my findings and reasons thereon, are as under:

<u>Sr. No.</u>	<u>POINTS</u>	<u>FINDINGS</u>
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(1).	Whether it is proved that non-applicant	
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No.1 subjected the applicant to domestic violence?..... ..Yes.

- (2). Whether the findings recorded by the Ld. Trial Court, while passing the impugned Judgment, need interference?To the extent of grant of separate maintenance.
- (3). Whether the applicant is entitled for the reliefs granted by the Ld. Trial Court?..... ..Yes, as per the Final Order.
- (4). What Order?The Appeal is partly allowed.

- : REASONS FOR THE FINDINGS :-

AS TO POINTS NOS. 1 TO 4 :

09. As all these points are interlinked, to maintain the brevity, I am taking the same for a joint discussion. Since inception, in view of the Report, submitted by the Protection Officer, the applicant levelled serious accusations against the non-applicants. This set of accusations comprised in itself her physical and mental abuse, a neglect and cruel treatments at their hands. She contended that they used to demand a dowry and on one count or the other, harassed her. They abused filthy and threatened her with dire result. She was not allowed to attend her examinations and in the last, expelled her from their house. In order to substantiate her contentions, she entered into the dock. However, on bare perusal of her version, it seems that barring her assertion, she did nothing to get resolved her alleged grievances. As such, the record is silent to infer that since her marriage till receipt of this Report from the Protection Officer, she ever lodged a police report against the non-applicants. In such scenario, there is no iota of material to gather that she was allegedly subjected to physical abuse at their hands. However, it seems that while assailing her stand, the non-applicants, more precisely non-applicant No.1, made unfounded allegations against her that she was suffering from such disorder and psychological issue, which he could not prove on trial. Consequently, to my mind, making of such accusations are

sufficient, **especially** when the same could not be substantiated, to draw an inference that he subjected her to domestic violence. Notably, a definition of the term a 'domestic violence' provided U/s. 3 of the said Act has to be interpreted in its widest connotation. By virtue of Explanation-I attached to it, it includes in itself even 'verbal and emotional abuse' and 'economic abuse' of a woman. In addition to such allegations of disorder, it appears on the record that during the period of her separate residence, he did not make any arrangements for her maintenance and a shelter. Non-applicant No. 1, being her husband, was duty bound to maintain her, that too **at par** with that of his own Social Status, wherein he failed. Hence, such neglect is nothing short than her 'economic abuse'.

10. Continuing my discussions, Explanation-II of Section 3 of the said Act lays down that for the purpose of determining whether any act, omission, commission or conduct of the respondent constitute a 'domestic violence' under this Section, the over all facts and circumstances of such case shall be taken into consideration. Applying this test to the present set of facts, it seems that although, the applicant failed to prove participation of rests of the non-applicants in subjecting her to a domestic violence, there is sufficient material to gather that non-applicant No.1, surely, neglected to maintain her and levelled unfounded allegations relating to her disorder. In this manner, in the given set of facts, it clear that he subjected her to 'domestic violence'. Notably, the Ld. Trial Court **restricted** this finding only to the extent of non-applicant No.1. Hence, this Court is also not inclined to interfere with this qualified finding.

11. Coming to separate maintenance, Para 22 of the impugned Judgment reveals that after referring to salary Certificate (Exhibit 21) of non-applicant No.1, the Ld. Trial Court held that he was getting his salary at Rs.78,469/-. Accordingly, even after considering the fact that this applicant was awarded Rs.10,000/- as her monthly maintenance, in Petition No.54/2018, the Court additionally granted Rs. 3,000/- per

month to her as maintenance. That apart, she was awarded Rs.5,000/- per month towards rent to secure her shelter and other reliefs as well. However, the bare look of this Certificate (Exhibit 21) reveals that this amount of Rs.78,469/- do included his salary arrears. Simultaneously, the non-applicants conceded his salary at Rs. 54,000/- per month and fortified this fact by filing salary extracts of non-applicant No.1 for the period from March, 2018 to September, 2025 vide the list (Exhibit 26). Thus, some how, quantum of salary, so referred by the Ld. Trial Court, went wrong. Consequently, in view of the salary, then received by the non-applicant No.1, there appears no justified reasons for the Ld. Trial Court to additionally grant separate maintenance of Rs. 3,000/- to the applicant, specially when she was already awarded Rs. 10,000/- under this head in the Petition, moved U/s. 125 of the Cr.PC.. Hence, to that extent, finding of the Ld. Trial Court needs to be set-aside. However, barring this portion of the Judgment, there is nothing to interfere with the findings of Ld. Trial Court about granting rent and compensation to this applicant. The record also reveals that during pendency of this proceeding, in view of the Judgment of dtd. 06.07.2023, passed in Cri. Misc. Application No. 01/2023, even the said quantum of Rs. 10,000/- was enhanced upto Rs.15,000/- per month. Interestingly, in Para 09 of the said Judgment, the Court referred to statement of the Advocate for this applicant to the effect **that** she wasn't getting maintenance under any other Statutes and her submissions to look into this aspect at the time of enhancement, as asked for. Certainly, the said statement of the Ld. Advocate for the applicant was not in consonance with the factual position. It appears that this applicant was not comfortable to disclose all the true facts before this Court. As such, barring her straight denial to contentions of the non-applicants, she did nothing. One step ahead, it appears that she restrained the said School Administration to share details of her income. Rather, in view of the list (Exhibit 29), she filed

the extract of her honorarium, received from the said School. Thus, it is clear that she was some how 'attached' with the said School.

12. **Notably**, the non-applicants contended that at the time of marriage itself, this applicant was suffering from the alleged disorder. Simultaneously, they contended that she was 'gainfully employed' with the said School. These two sets of stands are *per se* contrary to each other. True that they could place some medical papers of the applicant allegedly pertaining to the said disorder. However, they couldn't prove this fact on trial. Additionally, they could not establish that she was so employed and her income was sufficient to maintain her status **at par** with that of non-applicant No.1.

13. While passing the impugned Judgment, the Ld. Trial Court observed that, there was nothing on record to gather physical abuse of the applicant at the hands of the non-applicants and after considering the Certificate (Exhibit 21), granted additional separate maintenance of Rs. 3,000/- per month. However, as I referred above, observation of Ld. Trial Court, holding the income of non-applicant No. 1 to the tune of Rs.78,469/-, was apparently mistaken. That apart, very rightly, Ld. Trial Court didn't pass any order as against non-applicant Nos. 2 to 7. Thus, to the extent of granting of an additional separate maintenance, the impugned Judgment requires to be set-aside. However, in the light of the affirmative finding against non-applicant No.1 to have subjected the applicant with domestic violence, granting of reliefs, pertaining to monthly rent, the compensation and costs of litigation, were absolutely justified. Hence, leaving the portion of additionally granting a separate maintenance to the applicant, the rest of the Judgment is maintained. In the sequel, I answered point No. 1 in the affirmative and point Nos. 2 and 3 accordingly. Therefore, in the answer to point No. 4, I pass the following Order:

- : O R D E R : -

- (1). The Appeal is partly allowed. Accordingly, the Judgment and Order dtd. 05.02.2020, **only** to the extent of granting separate maintenance of Rs.3,000/- to the applicant (w.e.f. 05.01.2018), stands set aside. The remaining portion of the Judgment is maintained.
- (2). The parties to bear their own costs.
- (3). Original Record and Proceedings of PWDV Application No. 06/2018 be forwarded back to the Ld. Trial Court, along with Copy of this Judgment for information.
- (4). Copy of this Judgment be provided to the parties free of costs.

Buldhana.
Dated : 10.03.2026.

{A.G. Santani}
Addl. Sessions Judge, Buldhana.
District : Buldhana.

Certificate

“I affirm that the contents of this P.D.F. file Order are same word for word as per original Order.

Name of the Steno. :- S.E.Chaudhari (Grade-I)

Name of the Court :- Addl. Sessions Judge
(Court No.2), Buldana

Dictated on :- 10/03/2026

Transcribed on :- 13/03/2026

Checked on :- 16/03/2026

Date of Signature of Presiding Officer :- 16/03/2026

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