

CNR-MHBU11-001233-2025



Received on	: 29/12/2025
Registered on	: 29/12/2025
Decided on	: 21/08/2026
Duration	: Yr. Ms. Ds. 00 07 23

IN THE ADDITIONAL SESSIONS COURT, MALKAPUR,
AT : MALKAPUR, DIST. BULDANA.

(Present : R. B. Giri, Additional Sessions Judge, Malkapur.)

P. W. D. V. APPEAL NO.38/2025

Exh. No.15

- 1. Sau. Vaishali Rahul Gangasagar,**
Age about 33 years,
Occupation – Household.
- 2. Shivansh Rahul Gangasagar,**
Age about 08 years,
Occupation – Education,
through his Legal Heir Appellant No.1
R/o.: C/o. Ninaji Boduruji Shrivasa
Chaitanyawadi, Malkapur,
Tq. Malkapur, Dist. Buldana.

... Appellants.

--Versus--

- 1. Rahul Gangadhar Gangasagar,**
Age about 40 years,
Occupation – Service,
R/o.: Umarkhed, Tq. Umarkhed,
Dist. Yawatmal.
Present R/o.: Ananda Dudhane, Plot
No.302, C–Wing, Today Empire,
Sector-25, Plot No.28 Khandeshwar
Navi Mumbai, Tq., Dist. Raigadh.
- 2. Gangadhar Kondaba Gangasagar,**
Age about 68 years,
Occupation – Retired.

3. **Sau. Ratnamala Gangadhar Gangasagar,**
Age about 61 years,
Occupation – Household.

4. **Laxman Gangadhar Gangasagar,**
Age about 35 years,
Occupation – Education.
No.02, 03, 04 R/o. Umarkhed,
Tq. Umarkhed, Dist. Yawatmal.

5. **Ravindra Gangadhar Gangasagar,**
Age about 39 years,
Occupation – Service,
R/o. Saraswati Vihar, Near Anand
Sagar, Chincholi Road, Shegaon,
Tq. Shegaon, Dist. Buldana.

... Respondents.

**Appeal u/s 29 of The Protection of Women from Domestic
Violence Act, 2005**

Appearance :

Ld. Adv. Shri. G. D. Patil for the appellants.

Ld. Adv. Shri. T. V. Mohata for the respondents.

- : J U D G M E N T :-

(Delivered on this 21st day of August, 2026)

Being aggrieved by the order of dismissal of an application under section 12 of Protection of Women from Domestic Violence Act, 2005 for protection order, monetary

relief and compensation order passed by Learned JMFC Court No.01 Malkapur in Domestic Violence Application No.78/2018 dtd. 01/12/2025 the original applicant No.01 has filed the present appeal under section 29 of the Protection of Women from Domestic Violence Act, 2005 (Hereinafter referred the Act of 2005, in short).

02. The applicant / appellant filed an application under section 12 of the Act of 205 before Learned JMFC Malkapur claiming above noted reliefs as per sections 18 to 20 and 22, 23 of the Act of 2005.

03. In the said application it was averred by her that she got married with the respondent No.01 on 23/04/2016 as per Hindu Rites and Customs. Their marital relationship is still in existence. After marriage, she went for cohabitation with the respondent No.01 at her matrimonial home. The respondent Nos.02 to 05, who are her in-laws were jointly residing with them. During cohabitation, she had begotten the appellant No.02 son. She alleged that during her cohabitation with the respondent No.01, after initial period of marital bliss, she was never well treated by the respondents. The respondent No.01 used to abuse and assault her on the instigation of respondent No.03. They were demanding an amount of Rs.1,00,000/- (One Lakh Only) from her. The respondent No.01 went to Mumbai for his job and the appellant accompanied him. The respondent

No.01 was habituated to drinking liquor and he used to assault her under influence of liquor. The respondent No.03 instigated the respondent No.01 to desert the appellant and perform second marriage. The appellant cohabited with respondent No.01 at Mumbai with a hope of amendment in the behavior of the respondent No.01. He was not allowing the appellant to socialize in the neighborhood so also used to raise quarrel with her. After delivery of her son i.e. appellant No.02, the respondent No.01 did not provide any financial assistance to her not he had cared for her. After four to five months of her delivery, he took the appellant for cohabitation with him however he started raking up quarrel with her on one or other pretext. After much persuasion, she was taken to Mumbai by the respondent No.01 however he did not care for her well-being during their cohabitation. He continued with her physical and mental torture. Faded up with such behavior of respondent No.01, the appellant informed her parents who have tried to mediate between them at that time the respondent No.01 raised quarrel with her due to which her parents took her to their house on 12/06/2018. Thereafter, the respondent No.01 never cared for her. She filed an application before Women Cell at Malkapur at 24/11/2018 however the respondents did not participate in the said proceedings.

04. The appellant contended that the respondent No.01 being her husband had deserted her and compelled her to reside at her parental house. He had not provided any economic assistance to her thought duty bound and able to do so. Due to desertion by the respondent No.01, she is suffering from destitution and residing at the mercy of her parents. The respondent No.01 is earning salary of Rs.60,000/-(Sixty Thousand) per month from his private job in the company at Mumbai and therefore she is entitled for economic assistance to the extent of 50,000/-(Fifty Thousand) per month alongwith compensation and other appropriate reliefs.

05. The respondents vide their written statement at Exh.28 traversed the pleadings of the application besides accepting the marital relationship of the applicant No.01 and respondent No.01 and its subsistence. In resisting the application, they have tried to portray the other side of the coin by putting the blame of marital strain between the applicant No.01 and respondent No.01 on the applicant No.01 herself. They contended that after marriage, the applicant No.01 cohabited with the respondent No.01 at her matrimonial house for very short period during which they have shown love and affection towards her. She was not habituated to the daily chores of marital responsibilities due to which she was insisting for returning to her parental house. As the respondents were

persuading her to cohabit, she started racking quarrel with the respondents. The respondent No.01 took the applicant No.01 to Mumbai i.e. place of his job wherein also she did not amend her behavior. They have quoted instances of the discordant behavior of the appellant No.01 due to which the cohabitation of the respondent No.01 with appellant No.01 had become miserable. It is their contention that the respondent No.01 was taking her due care during her cohabitation however the appellant No.01 was not happy. She got pregnant and returned to parental house for delivery inspite of the wish of the respondent No.01 to perform her delivery at Mumbai. After delivery of her son, the appellant and her parents have not treated the respondents in appropriate manner, when they have visited her at the parental house. Not only this, the parents of appellant No.01 have refused to send her for cohabitation with respondent No.01. Under the pretext of rest, the appellant No.01 stayed at her parental house for six months against the wish of respondent No.01. On 23/03/2018, the respondent No.01 resumed cohabitation with him at Shegaon due to hair removing ceremony of his son i.e. appellant No.02. During such cohabitation the appellant No.01 started misbehaving with the respondents. She had mentally tortured them. On 16/04/2018, the respondent No.01 took the appellants to Mumbai for cohabitation during which, the appellant No.01 raked up quarrel with him on one or other pretext. She was asking him to leave

her at her parental house and refused matrimonial obligations as well as cohabitation with him. She was having suspicious nature and she used to abuse and harass the respondent No.01. She had also threatened to commit suicide and falsely implicate them in a criminal case due to which he had lodged a complaint against her in Police Station Kamothe at Navi Mumbai on 13/05/2018. The appellant never amended her behavior and refused to peacefully cohabit with him. According to the respondents, the marital separation between the appellant and respondent No.01 is due to the misbehavior of the appellant herself.

06. As far as the reliefs prayed for by the appellants are concerned, the respondents contended that the appellant No.01 is a well educated woman having capacity to earn. She is earning Ten to Fifteen Thousand per month from her tuition classes and her cloths business. The respondent No.01 is not having any permanent source of earning and he has been compelled to leave the job due to misbehavior of the appellant No.01 and therefore he is neither having capacity to earn nor any source of earnings and therefore he is unable to provide any monetary relief to the appellants. With these contentions, the respondents have prayed for dismissal of the application.

07. Considering the pleadings of the parties following points arise for determination to which I record my findings

thereon for reasons to follow. –

<u>Sr. No.</u>	<u>Points</u>	<u>Findings</u>
01.	Do the applicants / appellants prove that the respondent No.01 committed domestic violence with them ?	Yes.
02.	Do the applicants / appellants prove that the respondent No.01 is having sufficient means to maintain them ?	Yes.
03.	Do the applicants / appellants prove that the respondent No.01 neglected or refused to maintain them inspite of having sufficient means and without any just cause ?	Yes.
04.	Do the applicants / appellants prove that they are unable to maintain themselves ?	Yes.
05.	Whether the applicants / appellants are entitled for monetary reliefs and compensation as prayed for ?	Yes.
06.	Whether the judgment and order of the Learned Trial Court deserves interference ?	Yes.
07.	What Order ?	As per final order.

REASONS

08. Heard learned counsel for the appellants and the respondents.

09. Perused written notes of arguments of the respondents at Exh.12.

10. The appellants have examined appellant No.01 as PW-1 at Exh.38 and PW-2 Abhay Wanmali at Exh.82.

11. The respondents have countered the application / petition by examining respondent No.01 as DW-1 at Exh.64.

12. At the outset before proceeding to discuss or analyze the evidence of both the parties on record it must be stated that the pleadings of both the parties reveal the undisputed fact of marriage of appellant No.01 and respondent No.01 and its subsistence till today. Accordingly, the relationship between the appellant No.01 and respondent No.01 as husband and wife and the appellant No.02 being their son as well as the respondent Nos.02 to 05 being their relatives is not in much dispute.

AS TO POINT NO.01 :-

13. As observed by the Learned Trial Court, the provisions of the Act of 2005 are intended to protect the rights

of women guaranteed under the Constitution who are victims of violence of any kind occurring within the family. In fact, such is the object of the Act of 2005. Section 3 of the Act of 2005 defines domestic violence as any act, omission or commission or conduct of the respondent in case-

(a) It harms or injures or engenders the health, safety, life, limb or well-being whether mental or physical, of the aggrieved person and includes physical sexual, verbal, emotional, economic abuse or

(b) Harasses, arms, injures for engenders the aggrieved person with a view to coerce her or any other person related to her to meet any unlawful demand for any dowry or other property or valuable security or

(c) Has the effect of threatening the aggrieved person or any person related to her by any conduct as mentioned in clause a or b.

Explanation I.—For the purposes of this section,—

(i) “physical abuse” means any act or conduct which is of such a nature as to cause bodily pain, harm, or danger to life, limb, or health or impair the health or development of the aggrieved person and includes

assault, criminal intimidation and criminal force; (ii) “sexual abuse” includes any conduct of a sexual nature that abuses, humiliates, degrades or otherwise violates the dignity of woman; (iii) “verbal and emotional abuse” includes— (a) insults, ridicule, humiliation, name calling and insults or ridicule specially with regard to not having a child or a male child; and (b) repeated threats to cause physical pain to any person in whom the aggrieved person is interested; (iv) “economic abuse” includes — (a) deprivation of all or any economic or financial resources to which the aggrieved person is entitled under any law or custom whether payable under an order of a court or otherwise or which the aggrieved person requires out of necessity including, but not limited to, house hold necessities for the aggrieved person and her children, if any, stridhan, property, jointly or separately owned by the aggrieved person, payment of rental related to the shared house hold and maintenance; (b) disposal of household effects, any alienation of assets whether movable or immovable, valuables, shares, securities, bonds and the like or other property in which the aggrieved person has an interest or is entitled to use by virtue of the domestic relationship or which may be

reasonably required by the aggrieved person or her children or her stridhan or any other property jointly or separately held by the aggrieved person; and (c) prohibition or restriction to continued access to resources or facilities which the aggrieved person is entitled to use or enjoy by virtue of the domestic relationship including access to the shared household. Explanation II.—For the purpose of determining whether any act, omission, commission or conduct of the respondent constitutes “domestic violence” under this section, the overall facts and circumstances of the case shall be taken into consideration.

14. In view of the above noted provisions, the evidence of both the parties pertaining to the facts either proving or disproving the acts of domestic violence needs to be appreciated. It must be stated that the provisions of section 3 encompasses wide range of acts or omissions constituting domestic violence. The explanation II of the said section mandates the Court to consider overall facts and circumstances of the case while determining the act, omission, commission or conduct of the respondent constituting domestic violence.

15. In the present case the appellant No.01 and

respondent No.01 have both lead the evidence showing or trying to depict both the sides of coin. The appellant tried to demonstrate that the respondent caused domestic violence to her by narrating the instances which are predominately constituting about assault and abuses so also the taunting and neglect. The respondent no.1 hampered upon the fact that the appellant No.01 cohabited with him for short period of time without giving him any marital bliss or peace and rather her behavior was torture-some to him. He had also quoted several instances blaming the appellant No.01 for their marital separation.

16. In her cross-examination, the appellant No.01 stated that she is residing separately from respondent No.01 since more than five years however she had stoutly denied that it was her own act of living separately or deserting the company of respondent No.01. The respondent No.01 specifically admitted in his cross examination that he is not willing to permit the appellant No.01 to cohabit with him even if she is agreed to reside on his terms and conditions. He stated that after delivery of appellant No.01 he had taken the appellant No.01 for cohabitation with him from her parental house with assurance to her father about his good behavior. He stated that on 15/06/2018 he had left the appellant No.01 at her parental house even though he stated that it was at the insistence of her

father.

17. A conspectus reading of evidence of both the parties reveal that after the marriage of appellant No.01 and respondent No.01 on 23/04/2016 they have cohabited with each other for about eight months before their separation. For such separation, whose conduct is responsible and whether it constitutes domestic violence or not is the mute question. It can be discerned that in the present case the acts of the respondent No.01 are not that of commission and rather omissions. He had conducted himself in such a manner that it would be unsafe or harmful for the appellants to reside with him. The reasons it can be said so are writ large on the face of the record. His specific assertion that he would not permit the appellants to cohabit even if she agrees on his terms and conditions unconditionally goes to suggest that he is not interested in carrying out his marital responsibility and having stubborn attitude. In fact, he has specifically stated that he had filed the Divorce Petition against the appellant No.01 in the Court at Yawatmal. It is pertinent to note that he did not offer any reason for refusal of cohabitation or filing of the application for divorce. Even the contention of the appellant No.01 in her evidence explaining the conduct of the respondent No.01 during her cohabitation with him amounting to physical, verbal and emotional abuse has gone almost unchallenged in her cross-examination.

18. Considering the overall facts and circumstances of the case, the conduct of the respondent No.01 clearly falls within the parameters of the instances of domestic violence.

19. The Learned Trial Court while disbelieving the evidence of appellants on this aspect of the case had observed that the instances of assault narrated by the appellant No.01 are not corroborated by either the medical certificate or her reporting of the incidents to the Police Station, thereby it concluded the absence of domestic violence. While observing as such, the Learned Trial Court lost sight of the fact that in a marriage, there is always a presumption of intention to cohabit between the parties. Unless the assault or torture does not result into serious injury, no wife or woman would jeopardize her marital relations by reporting each and every instance to the authorities concerned. In fact, it can be said that the provisions of section 3 of the Act of 2005 are framed specifically to cover such instances. It is neither the requirement of law nor the facts of the case warranted such inference. It is common knowledge that a married woman, always intending to cohabit, would not report each and every instance of daily bickering to the grievance redressal authorities. The proceedings under the Act of 2005 are not of criminal nature and therefore the degree of proof required is that of preponderance of probabilities. The observations of the Learned Trial Court are neither

commensurate with the reliefs claimed by the appellants nor with the degree of proof. In observing such, even the absence of any fault of the appellant No.02 i.e. a newborn child and the neglect or refusal of the respondent No.01 to permit the cohabitation of both the appellants was lost sight of by the Learned Trial Court thereby causing great injustice to the said boy. The domestic violence which was required to be proved in the present case was through the prism of reliefs claimed. The reliefs were restricted to the economic assistance. For the said purpose the standard of Criminal Trial could not have been applied by the learned Trial Court.

20. Considered from every angle, the conduct of the respondent No.01 clearly amounts to physical, verbal and emotional abuse as well as economic abuse as admittedly he had refused to maintain them, though duty bound statutorily as well as due to subsistence of their marital relationship falling within the definition of domestic violence. It may not be out of place to mention here that even after the order of the Learned Trial Court granting maintenance of Rs. 3,500/- to the appellant No. 02 on 01/12/2025, the respondent No.01 neither complied with the said order till today nor challenged the same. This is demonstrative of the conduct of the respondent No.01.

21. For the reasons stated above I answer point No.01 in affirmative.

AS TO POINT NOS.02 TO 05 :-

22. Consequent to the answer to point No.01 in affirmative concluding the domestic violence, the points with respect to the monetary reliefs needs to be adverted to.

23. In this respect, the appellant No.01 stated that since her desertion by the respondent No.01 she is residing with her parents since last more than five years. She is being maintained by her parents. The respondent No.01 tried to contend that the appellant No.01 is a well educated lady having ability and means to maintain herself from her garments business and tuition classes. His such contention is bereft of any documentary evidence showing her source of earnings. Therefore it has to be concluded that even though the appellant No.01 is an educated lady however she is unable to maintain he son as well as herself. The refusal of the respondent No.01 to permit her to cohabit is indicative of the fact that he has neglected to maintain the appellants.

24. As far as the means of the respondent No.01 are concerned, it has come in the evidence of appellant No.01 that the respondent No.01 was working in a private company having salary of Rs. 60,000/- per month. For the said purpose she had examined PW-2 Abhay Wanmali i.e. the Administrative Officer of Medison Commission Pvt. Ltd. who had stated that the

respondent No.01 was working in their company on the post of senior executive and earning Rs.97,027/- per month. He had produced the letter of the company at Exh.83 to that effect. Significantly enough, the evidence of this witness was neither put to any challenge nor the respondent No.01 countered the same in his evidence before the Court. In this background, the conduct of the respondent No.01 has some relevance as he had stated in his affidavit of asset and liabilities that he was not having any job and dependent on the income of his parents. It can be concluded that the respondent has the tendency of narrating falsehood to escape the liability. Simply said, it can be stated that the respondent No.01 is having sufficient means to maintain the appellants i.e. his wife and son.

25. In such view of the matter, the Learned Trial Court erred in facts as well as in law by declining the monetary relief to the appellant No.01 wife and awarding meager amount of Rs. 3,500/- to a new born child. The awarding of said amount of maintenance to be payable by an income tax assessee, is not only paltry sum but also dis serving the laudable object of the provisions of the Act of 2005. Therefore, the order of the Learned Trial Court needs to be interfered with.

26. In the facts and circumstances of the case, it can be said that the respondent No.01 was a salaried employee on a private job. He was an income tax assessee. His settled earning

is Ra.1,00,000/- (One Lakh) per annum approximately. While deciding the quantum of the economic assistance or maintenance, the Court had to keep in mind the class of the family in the society. No doubt, the maintenance cannot be a bounty at the same time it cannot be such a meager amount which would amount to a negation of statutory rights of the aggrieved person. It should be able to avoid the destituteness of the applicants and restore their status before initiation of the proceedings. Considered from all the angles, the applicants / appellants are entitled for monetary relief to the extent of Rs. 7,500/- per month each alongwith one time compensation of Rs. 25,000/- for the proceedings.

27. In supporting the judgment and order of the Learned Trial Court negating the above noted reliefs, the learned counsel for the respondents has relied upon the judgment of Hon'ble Apex Court in Geeta Mehrotra and another Vs. State of U.P. and another 2013(1) MHLJ (Criminal) 570 which is a case arising out of the criminal proceeding under section 498(A) of the Indian Penal Code. It is pertaining to the tendency of the complainants in implicating large numbers of accused in matrimonial proceedings. It has no direct bearing on the fact of the present case. Similarly, the judgments of Hon'ble Apex Court in Swapnil and others Vs. State of Madhya Pradesh 2014(5) SCC (Criminal) 763 and Priti Gupta and another Vs. State of

Jharkhand 2010(7) SCC 667 are also relied upon which are pertaining to the criminal proceedings and therefore not having any direct bearing on the outcome of the present case.

28. The learned counsel for appellants also relied upon following judgments of Hon'ble Bombay High Court, in support of his appeal.

- (i) C.R.A. No.207/2022 Rajendra M. Bodkhe Vs. Sau. Sangita Rajendra Bodkhe and others. Dtd. 11/12/2025.
- (ii) C.R.A. No. 240/2022 Ashish Vs. Smt. Mohini and others 2025 BHC / Nagpur / 9202
- (iii) 2024 All MR Criminal 2460 Jimesh Ranavat and others Vs. Deepika Jimesh Ranavat and others.

29. In all these authorities, the Hon'ble High Court explained the scope of domestic violence as defined under section 3, the object and nature of the provisions of Act of 2005. The said authorities are followed while assigning the reasons to the point Nos. 01 to 05.

30. In view of the afore noted observations, the order of the Learned Trial Court refusing the monetary relief to the appellant No.01 cannot be sustained so also the order granting

monetary relief of Rs.3,500/- to the appellant No.02 needs alteration so also the appellants are entitled for the above noted compensation. Accordingly, I answer point Nos.02 to 05 in affirmative and proceed to pass following order. -

ORDER

- (1) P. W. D. V. Appeal No.38/2025 is allowed.
- (2) The judgment and order of the Learned Trial Court is set aside.
- (3) The respondent No.01 do pay the monetary relief of Rs. 7,500/-(Seven Thousand Five Hundred Only) each to both the Appellants from the date of filing of the petition i.e. 12/12/2018 alongwith compensation of Rs.25,000/-(Twenty Five Thousand Only).
- (4) The copy of the order be issue to both the parties free of cost so also it be issued to Protection Officer as well as the concerned Police Station.

(Dictated and pronounced in open Court)

Malkapur.
Date : 21st August 2026.

(R. B. Giri)
Additional Sessions Judge,
Malkapur.

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CERTIFICATE

I certify that this order P.D.F. uploaded is a true and correct copy of original signed order.

Name of Court	: Ad-hoc Distirct Judge – 1 & Additional Sessions Judge, Malkapur.
Name of Stenographer	: Mr. V. S. Jadhav. (Jr. Clerk)
Date of order	: 21.08.2026
Date of signed on order by Judicial Officer	: 21.08.2026
Date of Uploading	: 24.08.2026