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IN THE COURT OF ADDITIONAL SESSIONS JUDGE,
KOLHAPUR, DISTRICT - KOLHAPUR
(Presided over by D.V. Kashyap)

P.W.D.V. (Cri.)Appeal No.70/2018
Exh.No.37/A

1. Sou.Manisha Ghansham Keswani
Age: 38 yrs. Occu.Nil.
2. Kum.Veena Ghansham Keshwani
Age: 16 yrs. Occu.Education
3. Kum.Teena Ghansham Keshwani -- **Appellants**
Age: 11 yrs. Occu.Education
Appellants 2 and 3 are minor represented
through natural guardian mother
Sou.Manisha Ghanshyam Keswani

All appellants R/o. 140/14,
Next to Bhaji Market, Gandhinagar,
Tal. Karveer, Dist. Kolhapur

- Versus -

1. Shri.Ghansham Namdev Keswani
Age -40 yrs. Occu.Business
2. Shri.Kishor Namdev Keswani
Age -50 yrs. Occu.Business
3. Shri.Thavardas Namdev Keswani -- **Respondents**
Age: 45 yrs. Occu.Business
4. Shri.Rajesh Namdev Keswani
Age -45 yrs. Occu.Business

5. Sou.Meena Kishor Keswani
Age: 45 yrs. Occu.Household
6. Sou.Kiran Thavardas Keswani
Age -40 yrs. Occu.Household
7. Sou.Deepa Rajesh Keswani
Age: 33 yrs. Occu.Household

All respondents 1 to 7 are
resident of near a Hanuman temple,
Aaland, Tal.Aaland, Dist.Gulbarga
State Karnataka.

**Appeal u/s.29 of Protection of
Women from Domestic Violence Act**

Appearance :-

Shri.V.P. Hirani for the appellants.

Shri.S.R. Khamitkar for the respondents.

J U D G M E N T

(Delivered on 4th August,2026)

This appeal is directed against the judgment and order dated 27-02-2018 passed in D.V. Application No.609/2013 by the learned Judicial Magistrate, First Class (Court no.5), Kolhapur. The appellants are mother and daughters. Respondent no.1 is their father and respondent nos.2, 3 and 4 are the brothers of respondent no.1 and respondents 5, 6 and 7 are the wives of respondents 2, 3 and 4.

02. The appellants had filed an application under the Protection of Women from Domestic Violence Act (D.V. Act) against the respondents and claimed maintenance and other reliefs. The learned Magistrate rejected the application for the reasons stated in the judgment.

03. The appellants filed an application under Section 12 of the Protection of Women from Domestic Violence Act (the D.V. Act) against the respondents.

04. It was the case of the appellants before the learned Trial Court that appellant no.1 and respondent no.1 were married on 23-04-2000 at Aaland, Tal.Gulbarga. Her father had spent Rs.4 lakhs on the marriage. After marriage, appellant no.1 treated well by the respondents for 5 months. Thereafter, they started illtreating her on the ground that she had not brought Rs.2 lakhs from her father for the purpose of cloth business. Appellant no.1 convinced the respondents that she was not in a position to bring the money, but it was of no use. As appellant no.1 wanted to cohabit, she continued to live with respondent no.1. Appellants 2 and 3 were born out of their marriage. There was no source of income for respondent no.1 and therefore, appellant no.1's father was providing money for household expenses. The illtreatment continued towards appellant no.1 as she gave birth to girls. The respondent no.1 was demanding a male child. He used to keep appellant no.1 without food. He also used to throw her out of the house. Due to illtreatment, the health of appellant no.1 deteriorated. On 16-01-2012 appellant no.1 and her daughters were ousted by the respondents. The appellants came to Solapur. As appellant no.1 was not keeping well, her father took her to Dr.Varsha Kirtikar. It found that she was pregnant of one month. Due to ill-health the child was aborted on 17-01-2012. To treat the appellants well, efforts were

made by appellant no.1's father, her maternal uncle and other respectable persons but the respondents refused for the same. As the respondents were illtreating appellant no.1, Crime no.52/2012 came to be registered against the respondents on 6-3-2012. After getting information of registration of the crime, all the respondents met appellant no.1 and her father and assured to keep the appellants well and to keep some amount in fixed deposits in the name of daughters. They requested that the complaint be taken back.

05. Keeping faith in the words of the respondents, a compromise deed was executed on 10-3-2012, and the respondents agreed to keep Rs.5 lakhs each in fixed deposit in the name of the appellants within 3 months. It was also decided that the appellants and respondent no.1 shall live at Pune or Kolhapur. Because of the compromise, the complaint before the Aaland police station was withdrawn. The appellants and respondent no.1 started living at Kolhapur from 26-04-2012. Due to the complaint and appellant no.1 was not permitting respondent no.1 to perform another marriage, illtreatment started towards her at the hands of respondent no.1. Respondent no.1 used to beat appellant no.1. On 27-5-2012 respondent no.1 left company of the appellants and went to Aaland. Appellant no.1's maternal uncle and her father went to Aaland on 8-7-2012 and requested the respondents to treat the appellant no.1 well and to keep the amount in fixed deposit as per agreement. The respondents flatly refused. All the respondents came to Kolhapur

on 10-07-2012 and started beating appellant no.1 with fists and kicks on account of previous complaint and due to the refusal of appellant no.1 for second marriage of respondent no.1. The neighbours witnessed this incident. On seeing them, the respondents went away. Appellant no.1 tried to give an application to the police but her complaint was not accepted. The appellant no.1 made application in the Court. Directions were given for investigation. The respondents were released on bail. Reg. Cri.Case no.437/2013 is pending against them. The appellants have also filed a maintenance petition against respondent no.1, but respondent no.1 has purposely avoided service of notice upon him.

06. Thus, the appellants prayed for the reliefs available to them under the D.V. Act.

07. The respondents denied all the allegations against them, except the marriage of appellant no.1 with respondent no.1 and the birth of two daughters. According to them, appellant no.1 did not cohabit properly with respondent no.1 and used to quarrel over petty reasons. Because of the quarrels, the father of respondents 1 to 4 effected a partition of his sons in 2003, and since then respondent no.1 and the appellants started living separately at Aaland in rented premises. Respondents 1 to 4 did not interfere in each others family affairs. Suddenly, in 2012 appellant no.1 left respondent no.1's company in 2012 after quarreling with him. She went to Solapur and registered a false offence bearing no.52/12. She started blackmailing all the

respondents. Though respondent no.1 was not financially sound, he came to Solapur and requested the respected panch of the community to settle the matter. The panch accepted all the terms and conditions imposed by respondent no.1's father and maternal uncle, Girdharilal. Respondent no.1 wanted to cohabit with appellant no.1 bonafide, he also accepted all the conditions. Thereafter, respondent no.1 sold all the hardware material in his rented hardware shop, left the shop and started living at Kolhapur with appellant no.1. For the purpose of livelihood he started working in a hardware shop at Kolhapur. Appellant no.1 cohabited with respondent no.1 for about one month and then appellant no.1's father and maternal uncle beat respondent no.1 mercilessly on the ground that he did not give the money as decided. They ousted him. Respondent no.1 did not return to Aaland. He went to Pune and started doing a private job. Thereafter, on 17-07-2012 a private complaint was filed in the Court of Judicial Magistrate, First Class by appellant no.1, making false allegations. The private complaint was sent for investigation. The respondents were released on bail in the said private complaint. The appellant no.1 did not stop there, she filed false applications before the Sessions Court, Kolhapur for cancellation of bail granted to all the respondents. Appellant no.1 spoiled her life by listening to her father and maternal uncle. Respondent no.1 is still ready to cohabit with appellant no.1, but without any cause appellant no.1 has left respondent no.1's company. Respondent no.1 is maintaining himself by doing private job at Pune. He met with an accident at Pune and he was

indoor patient for 10 days in Yogesh Hospital, Sadashiv Peth, Pune. After the accident, appellant no.1 did not come there to see him. After his discharge he was bedridden for 3-4 months, but appellant no.1 did not come to see him. An amount of Rs.5 lakhs was spent on the medical treatment of respondent no.1. By making false and frivolous applications, appellant no.1 landed respondent no.1 in financial trouble. Due to the accident respondent no.1's movements are restricted and, he is working as a watchman. He is getting monthly salary of Rs.3,000/-. He has no house or cloth shop at Aaland. Appellant no.1 is working at Parth Collection and earning a salary upto Rs.15,000/- per month. She is able to maintain herself and the daughters. As she has left the company of respondent no.1, she is not entitled to get money. She was never subjected to domestic violence. As all the respondents are living separately they are not liable to pay maintenance.

08. Before the learned Trial Court, appellant no.1 and witnesses Bhagumal Talreja and Kishor Goplani entered the witness box and deposed.

09. On behalf of the respondents respondent no.1 and witnesses Pramodkumar Mittal and Rajendra Bokil entered the witness box and deposed. Both parties filed documentary evidence in their favour.

10. The learned Trial Court, after hearing both the parties and appreciating the oral as well as documentary

evidence, came to the conclusion that appellant no.1 was not subjected to domestic violence. She is not entitled to maintenance, compensation, rent, or an order of protection. Thus, the learned Trial Court rejected the application for the reasons stated in the judgment.

11. The appellants have preferred the instant appeal on the grounds specifically mentioned in the memo of appeal. According to them, the judgment and order is not legal. The learned Trial Court ignored basic principle of burden of proof. The learned Trial Court also ignored the object of D.V. Act. Thus, the appellants prayed that the appeal and the application under D.V. Act be allowed.

12. All the respondents appeared before this Court in pursuance of the notices issued to them.

13. Learned advocate for the appellants submitted written notes of arguments and also placed reliance on some case laws. He submitted that the learned Magistrate ignored the admissions of appellant no.1 and respondent no.1 that they were living in rental premises. The learned Magistrate also ignored that respondent no.1 left the appellants in the year 2012. The finding of the learned Trial Court in para no.21 of the judgment is wrong. Respondent no.1 never made any arrangement for residence of the appellants since 2012. This caused economic abuse to the appellants.

14. It is further submitted that the learned Magistrate

also ignored the fact that since the date of separation respondent no.1 never arranged for the maintenance of the appellant no.1 and the daughters. Respondent no.1 submitted affidavit before the Hon'ble Supreme Court of India, wherein he mentioned his address as Amar Hardware, Gulbarga, Karnataka. In all other averments, he stated that he was doing job as a watchman in Pune from 2013 to 2017. Amar Hardware, Gulbarga, Karnataka is the firm belonging to other respondents as per story of respondent no.1. There is also variance regarding his treatment in the hospital for three months. When it is case of respondent no.1 that he was earning Rs.3,000/- per month, the claim of paying a hospital bill of Rs.5 lakh is false. The respondents have stated about the partition in the year 2003, but respondent no.1 has failed to aver the property received by him in the partition.

15. The learned Trial Court ignored the fact that respondents 2 to 4 had transferred an amount of Rs.15 lakhs in the month of March and July 2012 to respondent no.1, which was huge and liable to be kept in fixed deposit in the name of the daughters as per MOU. This act of the respondents shows that instead of transferring the amount jointly in the name of the appellant and respondent no.1, transferred it to respondent no.1 only. Respondent no.1 has concealed fact of receiving Rs.15 lakhs from respondents 2 to 4. On the contrary, his entire pleading indicates that he is not capable of maintaining the appellants. Respondent no.1 did not obey the undertaking given by him before the Hon'ble High Court. Respondent no.1 has been

using the amount of Rs.15 lakhs since 2012. There is fraudulent concealment on the part of respondent no.1. Appellant no.1 has established sufficiently that she was subjected to domestic violence and she is entitled to the reliefs claimed by her. In further written submissions, learned advocate for the appellants reproduced some excerpts of the case laws and submitted that it is settled that even employed wife cannot be denied maintenance. It is also settled that provisions under the D.V. Act and Code of Criminal Procedure are independent. The maintenance amount granted in favour of the appellants to the extent of Rs.1500/-, Rs.1,000/- and Rs.1,000/- per month respectively in the year 2018 is insufficient. Thus, it is finally submitted that the appeal be allowed and the claimed reliefs be granted.

16. Learned advocate for the appellants placed his reliance on the following case laws -

- i) Chhaju Ram Vs. Smt.Asha Devi, (2016 Cri.L.J.3900)
- ii) Aradhana Walkade Vs. Chandrashekar Vaidya and another (2014(2) Bom.C.R. (Cri) 588)
- iii) Saraswathy Vs. Babu (2013 DGLS (SC) 940)
- iii) Aruna w/o.Omprakash Shukla Vs. Omprakash s/o.Devanand Shukla (2021 DGLS (Bom.) 863)
- iv) Anil Surajmal Zawar and others (Dr.) Vs. Sneha Sunil Zawar and another (2024 DGLS (Bom.)3960)
- v) Ramendra Kishore Bhattacharje Vs. Madhurima Bhattacharjee (AIR Online 2021 Tri 42)
- vi) Vipul Lakhnapal Vs. Smt.Pooja Sharma and Anr.(2015 CRI.L.J. 3451)

- vii) Ritesh Ratilal Jain and Ors. Vs. Sandhya w/o. Ritesh Jain and Anr. (2013 CRI.L.J. 3909)
- viii) Devmani Thakkar Vs. State of Maharashtra (AIROnline 2020 Bom 2580)
- ix) Menti Trinadha Venkata Ramana V. Menti Lakshmi (AIROnline 2021 AP 120)
- x) Gitika Barman Vs. Sanjeev Barman (AIROnline 2022 GAU 144)
- xi) Dhananjay Ramkrishna Gaikwad and Ors. Vs. Sunanda Dhananjay Gaikwad and Anr. (2016 CRI.L.J. 1482)
- xii) Lalita Toppo Vs. State of Jharkhand and Anr. (AIR 2018 SC (Supp) 2583)
- xiii) Senthil Kumar Dharman Vs. S.Thangalakshmi (AIROnline 2024 DEL 1093)
- xiv) Sanjay Gulati Vs. Harsh Lata (Cri.Rev.Application No.783/2017)
- xv) Sangita Saha Vs. Abhijit Saha (2019 2 AICLR)

17. On behalf of the respondents, it is submitted that the appellants are getting sufficient maintenance. The appellants have dragged the respondents into a number of cases only in order to harass them. Hon'ble High Court has refused to entertain the application for cancellation of bail as well as Contempt Petition. He further submitted in the entire evidence of appellant no.1, her father and maternal uncle Kishor, it is nowhere established that appellant no.1 was subjected to domestic violence. Learned advocate for the respondents read the entire evidence adduced on behalf of both the parties and submitted that the learned Trial Court has rightly concluded that respondent no.1 has closed his business and came to Kolhapur to

live with the appellants. Brothers of respondent no.1 are doing separate business. Though they are getting sufficient income from their business, that cannot be considered in favour of the appellants to get maintenance, compensation, rent and costs. No evidence has been brought on record to sufficiently establish that respondent no.1 is getting monthly income. On the other hand, respondent no.1 has adduced evidence to show that he gets salary of Rs.3,000/- per month. The learned Trial Court rightly concluded that respondent no.1 and the appellants are living separately. No evidence has been adduced to substantiate that due to domestic violence the appellants suffered financial loss. He finally submitted that the appeal has no merit. It is liable to be dismissed with costs.

18. The following points arise for my determination and I record my findings on them for the following reasons.

<u>Sr. No.</u>	<u>Points</u>	<u>Findings</u>
1)	Whether the appellants were subjected to domestic violence at the hands of the respondents ?	Yes, partly.
2)	Whether the appellants are entitled to the reliefs claimed by them, if yes, against whom ?	Yes, against respondent no.1
3)	Whether interference is warranted in the impugned judgment order at the hands of this Court ?	Yes
4)	What order?	As per final order.

REASONS

Point 1 :-

19. Appellant no.1 registered Crime no.52/2012 against the respondents under section 498A of the Indian Penal Code at police station, Aaland, Dist.Gulbarga. It was compromised between the parties on execution of Memorandum of Understanding (MOU). Respondent no.7 filed an application under under Section 12 of the D.V. Act before Judicial Magistrate First Class, Aaland, vide DVC No.843/2013. This application was challenged before the Hon'ble Karnataka High Court, Bench at Gulbarga vide Cri.Writ Petition No.160/2013. It was quashed on 10-03-2014 by the Hon'ble Karnataka High Court.

20. Thereafter, a private complaint was filed by appellant no.1 against the respondents. The learned Magistrate ordered investigation under section 156(3) of the Cr.P.C. After investigation, a chargesheet came to be filed against the respondents and it was registered as Reg.Cri.Case No.437/2001. (It resulted in acquittal of all the respondents vide order dated 27-02-2018). The respondents filed anticipatory bail application before the Hon'ble Bombay High Court vide Cri.Bail Appln. no.1086/2012. The respondents were released on pre-arrest bail on 12-12-2012 in view of the consent terms executed between appellant no.1 and the respondents. Cri.Application no.72/2013 came to be filed by appellant no.1 against the respondents for cancellation of anticipatory bail granted to the respondents on 12-12-2012 as they did not comply consent terms executed in

Cri.Bail Application no.1086/2010. This application was rejected by the Hon'ble Bombay High Court on 28-03-2014. Being aggrieved by this order, a Special Leave Petition, bearing no.4679/2014, came to be filed by the appellant before the Hon'ble Supreme Court. It was dismissed on 21-09-2015. The Contempt Petition No.180/2017 came to be filed by the appellant against the respondents before the Hon'ble Bombay High Court for initiation of contempt proceeding against the respondents. It was dismissed by the Hon'ble High Court on 10-01-2024.

21. The appellants filed an application under Section 125 of the Cr.P.C. against respondent no.1 before Judicial Magistrate First Class, Kolhapur and claimed maintenance. It was partly allowed and maintenance amount of Rs.1,500/-per month to appellant no.1 and Rs.1,000/- each to appellants 2 and 3 per month was granted on 27-02-2018. Execution Recovery Proceeding bearing no.28/2024 was filed by the appellants against respondent no.1 under Section 128 of the Cr.P.C. for recovery of maintenance amount from 18-01-2021 to 18-04-2023. The same is pending for adjudication.

22. Thus, there is a checkered history of litigation between the parties.

23. The Protection of Women from Domestic Violence Act came in force into force and was entered into the statute books on 13-09-2025. It provides for more effective protection of the rights of women guaranteed under the Constitution who are

victims of violence of any kind occurring within the family and for matters connected therein or incidental thereto. The definition clause of this Act provides for definitions of the terms appearing in this Act. As per Section 2(g) of this Act, the domestic violence is defined. It says that it has the same meaning as assigned to it in Section 3 of this Act.

24. Chapter II of this Act gives comprehensive definition of “domestic violence”. For ready reference, it is reproduced below -

Domestic violence.—For the purposes of this Act, any act, omission or commission or conduct of the respondent shall constitute domestic violence in case it— (a) harms or injures or endangers the health, safety, life, limb or well-being, whether mental or physical, of the aggrieved person or tends to do so and includes causing physical abuse, sexual abuse, verbal and emotional abuse and economic abuse; or (b) harasses, harms, injures or endangers 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 mentioned in clause (a) or clause (b); or (d) otherwise injures or causes harm, whether physical or mental, to the aggrieved person.

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.

25. Appellant no.1 and respondent no.1 are husband and wife, appellants 2 and 3 are the children born out of the wedlock between them, marital tie between them is still in existence are some of the admitted facts. Previous history of litigation is also undisputed.

26. Appellant no.1, in her evidence before the learned Trial Court, has specifically deposed in para no.6 of her evidence affidavit that she read the reply filed by the respondents and the

contents in it are false and frivolous. She specifically denied that respondents 2 to 4, as decided earlier, kept Rs.5 lakh each in fixed deposits in the names of appellants 2 and 3 and that the certificate was handed over to appellant no.1 in presence of her father and maternal uncle Kishor Goplani. She further denied specifically that an amount of Rs.5 lakhs was paid to her by way of cheque. She further denied the respondents reply that no financial transaction between the appellants and the respondents remained to be performed.

27. Appellant no.1 was subjected to scathing the cross-examination. It was specifically brought out in her cross-examination that respondent no.1 and his brothers were doing the business jointly. She denied that in 2003 father of appellant no.1 had separated their business. It was further underscored in cross-examination that respondent no.1 is in the hardware, cloth and machinery business. She further denied that since 2003 she was living with respondent no.1 and appellants 2 and 3 in a rented room at Aaland. She further denied that after 2003 the appellants and respondent no.1 started residing jointly with respondents 2 to 7. It needs to be mentioned here that above two suggestions are contradictory. Further cross-examination of the appellant no.1 is about mainly on admitted facts between the parties. It is further suggested to appellant no.1 in cross-examination that business of respondent no.1's brothers' is running in good condition and respondent no.1's hardware business is not running in good condition. She admitted this

suggestion. On the basis of the suggestions given to appellant in her cross-examination, it emerged that respondent no.1 was doing joint business with his brothers i.e. respondents 1 to 4. It also emerged that respondent no.1 was separated from the family and he has been doing various business like hardware, clothes, and machinery. Though appellant no.1 admitted that respondent no.1's business is not doing well, it is undisputed that he is in business.

28. Appellant no.1 denied that her husband earns Rs.2,000/- per month by doing a job at Pune. She expressed unawareness about meeting of respondent no.1 meeting with an accident, his admission to the hospital, and spending of Rs.5 lakhs by respondent no.1 on his treatment.

29. In the entire cross-examination of appellant no.1, it is nowhere suggested to her that Rs.5 lakh each were put in fixed deposit in the names of appellants 2 and 3 and that Rs.5 lakhs were paid to her by way of a cheque. Thus, the defence raised by the respondents that they fulfilled their promise by paying a lump-sum amount of Rs.15 lakhs to the appellants is not put to appellant no.1 in her cross-examination.

30. Respondent no.1, in his evidence affidavit, particularly in para no.7, reiterated his defence of payment of Rs.15 lakhs to the appellants by way of fixed deposits and cheque. It is pertinent to mention here that respondent no.1 has not submitted details of the fixed deposit certificates and the

cheque. In cross-examination, respondent no.1 admitted that in the criminal case under Section 498A of the Indian Penal Code, there was a compromise between his family and the appellants and in pursuance of that compromise he agreed to pay Rs.5 lakh each to respondents 2 and 3 and Rs.5 lakh to appellant no.1. He admitted the execution of such kind of agreement. During his cross-examination, Exh.33 and Exh.34 were marked. Exh.34 is the consent terms executed and filed in Cri.Application no.1086/2012. In the consent terms dated 12-12-2012, respondent no.2 i.e. the present respondent no.1 accepted to pay Rs.15 lakhs to the appellants as stated earlier.

31. From the testimonies of appellant no.1 and respondent no.1, it emerges that respondent no.1 did not fulfill his promise to pay the lumpsum amount of Rs.15 lakhs to appellants 1, 2 and 3.

32. In the matter of **V.D. Bhanot Vs. Savita Bhanot (AIR 2012 SC 944)**, Hon'ble Supreme Court decided the issue, whether non payment of maintenance is economic abuse. While answering this issue, the Hon'ble Supreme Court held that economic abuse includes deprivation of all financial resources to which the aggrieved party is entitled under any law or order of the Court. Willful non-payment of maintenance is economic abuse. It is a form of domestic violence.

33. The observations in above reported ruling are squarely applicable in the facts of the present case for the reason that at all stages of above-mentioned litigations between the

parties, respondent no.1 succeeded in compromising the matter by projecting before the different Courts that he was willing to pay a lump-sum amount of Rs.15 lakhs to the appellants. By keeping faith in his words, a case under Section 498A resulted in compromise and he was released on pre-arrest bail. Unfortunately, non fulfillment of his promise to pay the agreed amount could not have been considered by the Hon'ble Bombay High Court in view of embargo in **Mahesh Chandra Vs. State of U.P. and others ((2006)3 SCC (CRI) 23)** .

34. In spite of displeasure expressed by Hon'ble Bombay High Court in Criminal Application No.72/2013 arising out of Cri.Anticipatory Bail Application No.1086/2012, till date respondent no.1 has not fulfilled his promise to pay Rs.15 lakhs to the appellants. The displeasure expressed by the Hon'ble High Court in para no.10 of the order needs to be reproduced, which reads as under.

“It is necessary to note a fact that the respondent/accused on 20th November, 2012 and 12th December, 2012 has submitted before this Court that he was ready to deposit Rs.15 lakhs in the name of his minor daughters. Undoubtedly, the respondents/husband has now took a somersault and seeking protection under the settled law. This Court is bound to uphold the law of land. However, it is not out of place to mention that this Court expresses displeasure as it was moral responsibility of the respondent/husband, to keep the word which he has assured before this Court”.

Thus, the conduct of respondent no.1 is dubious throughout the proceedings between him and the appellants. In view of ratio laid down in the matter of **V.D.Bhanot (supra)**, comprehensive definition of domestic violence and conduct of respondent no.1, it is sufficiently established that he subjected the appellants to economic abuse, which is a form of domestic violence.

35. The learned Trial Court, while dealing with the application, did not consider above referred aspects and came to the wrong conclusion that respondent no.1 was not liable for domestic violence. This conclusion arrived at by the learned Trial Court is in total ignorance of definition of “domestic violence”. Moreover, the learned Trial Court also ignored the aspect that due to non fulfillment of promise to pay lumpsum amount, the appellants were constrained to file a separate maintenance application against respondent no.1 and they were made entitled to get maintenance. This conduct of respondent no.1 also amounts to domestic violence. The appellant no.1 was constrained to knock the doors of different Courts in respect of the cruelty which she met at the hands of respondent no.1 and this is also a form of domestic violence. The learned Trial Court did not consider this aspect. The learned Trial Court did not consider the documents placed before it in proper perspective. Above discussion leads this Court to come to the conclusion that the appellants were subjected to the domestic violence at the hands of respondent no.1. Other respondents, who are living

separate from respondent no.1, they cannot be held liable for domestic violence against the appellants. Point no.1 is answered in the affirmative, partly.

Point no.2 :-

36. The appellants claimed various reliefs like prohibiting the respondents from causing physical and mental domestic violence to the appellants, maintenance of Rs.20,000/- each per month to all the appellants, compensation of Rs.1 lakh, rent of Rs.10,000/- per month and cost of Rs.10,000/-.

37. The respondent no.1 tried to project himself by adducing oral evidence that he is serving in a private shop and getting Rs.3000/- salary per month. He also adduced supporting oral evidence of witness Pramodkumar Kantilal Mittal, a shop owner. This evidence of respondent no.1 and witness Pramod Mittal is at all not believable for the reasons that witness Pramod has not produced any document like a salary certificate or an employment document to show that respondent no.1 was under his employment.

38. Respondent no.1 suppressed the material fact like, what properties he received during the partition between his brothers. Another reason to disbelieve is that if he was getting only Rs.3,000/- salary per month, how he could do medical expenses of Rs.5 lakhs. Moreover, if respondent no.1 had no financial capacity to pay the maintenance amount, he would not have entered into consent terms with the appellants and assured before the Hon'ble High Court to give a lumpsum amount of

Rs.15 lakhs to all the appellants. All these aspects of the matter are sufficient to conclude that evidence of respondent no.1 about his financial position is not at all reliable.

39. In the matter of **Chhaju Ram (supra)**, it is held that the petitioner undertook before the Court to open bank account of Rs.15,000/- each in the name of his two minor children and had also undertaken to make regular deposits in these accounts. He did not comply with any of the undertakings and had taken the Court for a ride. The petitioner after giving undertaking, even managed to get further proceedings in the Court below stayed. By observing dubious nature of the petitioner, Hon'ble High Court ordered the husband to pay arrears and comply with the undertaking. Somewhat similar situation is also in existence in the matter of **Saraswati (supra)**.

The situations underscored in the above-referred case laws are identical with the facts in the case at hand. Respondent no.1 gave undertaking before the Hon'ble High Court in bail proceeding and did not comply with it and took the Court for a ride.

40. It is settled by the Hon'ble Supreme Court as well as various High Courts of the country that employed wife cannot be denied maintenance by husband only on the ground that he is unemployed. For example, reference of **Vipul Lakhan Pal Vs. Smt.Pooja Sharma and another (2015) CRI.L.J. 3451** is sufficient.

41. In the matter of **Anil Surajmal (supra)** it is held that acquittal of the accused of the charge under Section 498A of the I.P.C. cannot be a ground to deny compensation to the aggrieved persons under civil law. The D.V. proceeding is quasi civil and quasi criminal. Hence, observations in this reported ruling can be pressed into service for the cause of the appellants.

42. Without increasing volume of this judgment by referring the other cited rulings, with the utmost respect to the observations made in them, this Court comes to the conclusion that the applicants are entitled to the reliefs claimed by them against respondent no.1 because they were subjected to economic abuse at his hands. Point no.2 is answered accordingly.

Point no.3 :-

43. In view of discussions made in foregoing paragraphs, this Court interferes in the impugned judgment and order and accordingly set them aside against respondent no.1. Point no.3 is answered accordingly.

As to Point no.4 :-

44. Respondent no.1 undertook on 12-12-2012 before the Hon'ble High Court to pay lumpsum amount of Rs.15 lakhs to all the appellants i.e. Rs.5 lakh each. He did not obey the said undertaking. This caused mental agony to the appellants and they constrained to file the instant application. The appellants are entitled to Rs.5 lakh each towards all the monetary reliefs claimed by them under the D.V. Act from the date of the filing of the application. If respondent no.1 had paid the amount as per

the undertaking, all the appellants would have received handsome rate of interest on the timely received amount. Respondent no.1 deprived them from getting the interest. This Court thinks it fit to award 8% interest per annum to each appellant from the date of the filing of the application till its realization in full. In the result, following order is passed -

Order

- 1) The appeal is partly allowed with costs against respondent no.1.
- 2) The appeal is dismissed against respondents 2 to 7.
- 3) The judgment and order dated 27-02-2018 passed by the Judicial Magistrate First Class, (Court no.5), Kolhapur in the D.V. Application No.609/2013 are set aside against respondent no.1 and maintained against respondents 2 to 7.
- 4) The D.V. Application no.609/2013 is partly allowed with costs against respondent no.1.
- 5) Respondent no.1 shall pay Rs.5,00,000/- (Rs. Five Lakh) each in lumpsum towards maintenance, house rent and compensation to the appellants i.e. the applicants before the learned Trial Court alongwith 8% percent interest from the date of filing of the application i.e. 12-08-2013 till its realization in full.
- 6) Copy of this judgment be given to the appellants as well as respondent no.1, free of costs.
- 7) R & P in D.V. Appln.No.609/2013 be sent to the trial court alongwith copy of this judgment and order.

Kolhapur
Date: 04/08/2026

(D.V.Kashyap)
Additional Sessions Judge,
Kolhapur.