



Presented on : 14/09/2022

Registered on : 22/04/2025

Decided on : 02/04/2026

Duration : YY MM DD
00 08 11

IN THE COURT OF ADDITIONAL SESSIONS JUDGE, WAHIM
(Presided over by M. S. Sahastrabudhe)

Criminal Appeal No. 17/2025
CNR No. MHWS0100003972025

Exh. No.15

1. Vijay Atmaram Changade
Age 42 yrs. Occup. - Agri. & Business
2. Gajanan Atmaram Changade
Age 44 yrs. Occup. - Agri. & Business
3. Sumanbai Atmaram Changade
Age 64 yrs. Occup. - Household
4. Seema Gajanan Changade
Age 46 yrs. Occup. - Household

Appellant Nos.1 to 3 r/o Malipura, Mehkar,
Tq. Mehkar Dist. Buldhana ... **Appellants**

VERSUS

1. Sau. Jyoti Vijay Changade
Age 40 years, Occup. - Household
2. Ku. Shruti Vijay Changade
Age 8 yrs. Occup. - Education
By G.A.L. mother respondent
Both r/o Mehkar at present
r/o C/o Kundlik Arjuna Iratkar
Shirpur, Tq. Malegaon, Dist. Washim. ... **Respondents**

**APPEAL U/SEC. 29 OF PROTECTION OF WOMAN FROM DOMESTIC
VIOLENCE ACT, 2005**

Appearance : Adv. Shri. P. B. Phatak for appellants/petitioners,
Adv. Shri. U. A. Deshmukh for respondents.

J U D G M E N T

(Delivered on this 2nd day of April 2026)

The appellants have challenged the legality and correctness of the judgment and order passed by Judicial Magistrate (F. C.) Malegaon Dist. Washim in Protection of Women from Domestic Violence Act (*Hereinafter referred as PWDVA for the sake of brevity*) Case No.08/2019, Sau. Jyoti Vs. Vijay and others on 11/07/2022.

2] Appellant No.1 is husband of respondent No.1 and father of respondent No.2. and other appellants are his relatives. Respondent No.1 had filed petition under Section 12 of PWDVA against the appellants alleging that she was subjected to cruelty by the appellants. Respondent No.1 gave birth two daughters out of the wedlock and the appellants were harassing her on the ground that she is unable to give birth to a son. The appellants were demanding Rs. Two lakh from respondent No.1 for construction of the house and as respondent No.1 could not fulfill their demand they, by snatching all the gold ornaments of respondent No.1 have driven her out of the house with her small daughters on 17/01/2018. The respondent No.1 has no source of income. On the other hand, appellant No.1 is having agricultural land and flower shop and is having the income of Rs.3,000/- to Rs.4,000/-

per day. Hence respondent No.1 had demanded the maintenance of Rs.15,000/- per month for herself and her daughters and Rs.6,000/- for house rent.

3] The appellants in spite of opportunity did not file say in the said proceeding and the matter proceeded without their say. Considering the averments of the respondent No.1 and evidence led by her, the ld. trial Court had come to the conclusion that the appellants have subjected respondent No.1 domestic violence. She has no source of income and accommodation. Accordingly the ld. trial Court had given protection order to respondent No.1 against all the appellants and had granted them maintenance of Rs.5000/- per month for respondent No.1 and Rs.2000/- per month for respondent No.2. The ld. trial Court had also directed the appellants to pay compensation amount of Rs.5000/- to respondent No.1 and Rs.500/- per month for the monthly rent for the accommodation. Feeling aggrieved by this order the appellants have preferred the present appeal.

4] In the written notes filed by the appellants vide Exh.11, they have contended that amount of maintenance awarded by ld. Magistrate is exorbitant. The ld. trial Court did not give opportunity to the appellants to file their written statement on record and without considering their submissions the matter was decided. The ld. trial Court has not considered the financial capacity of the appellant and have passed the order granting huge amount of maintenance to the respondents. It is further contention of the appellants that they could file their written statement on record, as the court working was hampered due to Corona and thereafter, they could not contact their

advocate and filed their written statement on record. The respondents have not filed any documents on record regarding income of the appellants. In spite of same excessive maintenance order is passed by the ld. trial Court. The appellant No.1 had time and again made attempts to bring respondent No.1 back for cohabitation. However, relatives of respondent No.1 has expelled him out of the house. The appellant No.1 in regularly paying the maintenance amount. Till date he has paid nearly Rs.2,50,000/- of maintenance. One of his daughter is residing with appellant No.1 and he has to maintain her. Due to excessive order of maintenance granted by the Court, the appellant is unable to maintain himself and their daughter. Hence, he has prayed to remand the matter and give opportunity to contest the matter on merits.

5] On the other hand, ld. advocate for the respondents have supported the impugned judgment and has submitted that the repeated opportunity was given to file written statement on record. However, they have chosen not to file their written statement on record. Now they cannot blamed the Court for deciding the matter without their written statement. The respondent No.1 had filed on record the 7/12 extract of the agricultural field of the appellants. So also she has proved that she was subjected cruelty by appellant No.1 and his relatives on various grounds. The ld. trial Court by properly appreciating on record has passed the order. Hence, the appeal needs to be dismissed.

6] Following points arise for determination and I record findings thereon for the reasons followed thereafter :-

Sr. No.	POINTS	FINDINGS
1]	Whether interference is required in the impugned Judgment passed by ld. trial court	Yes.
2]	What order ?	Appeal is allowed.

:: REASONS ::

As to Nos. 1 and 2 :

7] The relations between the parties are undisputed. From the order of ld. trial Court it appears that the appellants in spite of opportunity did not file their written statement on record. The ld. advocate for the appellants have filed on record certified copy of the judgment and order and paper book of the proceeding before ld. trial Court. It appears that the petition under PWDVA was presented by the respondent No.1 on 11/02/2019. After service of notice the appellants have appeared in the matter. However they did not file their written statement on record. Thereafter interim application was decided on 03/05/2019 without say of the appellants. However, no say and no written statement order was passed against the appellants on 08/10/2021. Thereafter, the respondent No.1 had filed her evidence on affidavit on 03/09/2021 and by closing the evidence of respondent on 03/02/2022 the matter was decided on 11/07/2022.

8] Thus it appears that no Written Statement order was passed against the appellant on 08/10/2021. At the relevant time, as submitted by the appellants it cannot be disregarded the working of the

Court was hampered for a considerable period due to Corona Pandemic. It also appears that the present proceeding is filed at Washim and the appellants are resident of Tq. Mehakar Dist. Buldhana. So also judicial note can be taken of the fact that income of almost all the people was considerably affected. Thus it cannot be disregarded that hardship might have been faced by them to contact the advocate and appear in the proceeding. Hence the non filing of the written statement by the appellants does not appear to be deliberate and opportunity needs to be given to them to file written statement on record and the contest the matter on merits.

9] The ld. advocate for the appellants had filed on record the copy of receipts of maintenance deposited by the appellant No.1 in the Court. It appears that after filing of the appeal the appellant No.1 is regularly depositing the maintenance amount. So also it appears that vide order below Exh.10 the ld trial Court has already granted maintenance of Rs.5000/- per month to respondent No.1 and Rs.2000/- per month to respondent No.2 from the date of filing of the application. Even if the matter is remanded the said order would revive and the appellants would be bound to pay the said interim maintenance to the respondents. Thus no serious hardship would be caused to the respondents, even if the matter is remanded.

10] In view of the aforesaid discussion, I have come to the conclusion that the appellants were prevented by sufficient reason from not filing written statement and contesting the matter. Hence, opportunity needs to be given to them to appear before the ld. trial Court and by filing their written statement on record, to contest the

matter on merits. Till the matter is decided on merits by the ld. trial Court, the appellants would be liable to continue to pay the interim maintenance to the respondents. The amount of maintenance already deposited by the appellants be adjusted in the arrears of maintenance to be paid by them to the respondents from the date of filing of application Exh.10 till decision of the matter by ld. trial Court. Hence interference is required in the order passed by the ld. trial Court. The impugned judgment needs to be quashed and set aside and the matter needs to be remanded to ld. trial Court to decide it afresh by affording opportunity to the appellants to contest the matter on merits. Thus, I answer point No.1 in affirmative and an answer to point No.2, I proceed to pass following order: –

:: ORDER ::

- i] Appeal stands allowed.
- ii] Impugned Judgment and Order in PWDVA Case No. 08/2019, Sau. Jyoti Vs. Vijay passed by J.M.F.C., Malegaon is quashed and set aside.
- iii] The matter is remanded to the ld. trial Court for deciding it afresh.
- iv] Both parties are directed to remain present before the ld. trial Court on 20/04/2026.
- v] The appellants are directed to submit their written statement within 15 days thereafter.
- vi] Record and proceeding be sent to the trial Court.

Place : Washim
Date : 02/04/2026

(M. S. Sahastrabudhe)
Addl. Sessions Judge, Washim.

CERTIFICATE

I affirm that the contents of this P.D.F. file Judgment/Order are same word to word, as per the original order :-

Name of the Stenographer	:-	N. B. Khandare, Stenographer (Grade-1)
Court Name	:-	District Judge-3 & Additional Sessions Judge, Washim
Date	:-	02/04/2026
Order signed by the Presiding Officer on	:-	04/04/2026
Order uploaded on	:-	04/04/2026