

**IN THE HIGH COURT OF DELHI AT NEW DELHI**

% Judgment delivered on : 28.07.2025

+ **CRL.M.C. 1129/2020**

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.....Petitioner

versus

STATE & ANR.

.....Respondents

Advocates who appeared in this case:

For the Appellant : Mr. Jai Bansal and Mr. Abhishek Verma,
Advs.

For the Respondents : Mr. Raj Kumar, APP for the State
Mr. Hitesh Kumar, Mr. Suraj Rawat, Ms.
Sapna & Mr. Vikas Sharma, Advs. for R2

CORAM

HON'BLE MR JUSTICE AMIT MAHAJAN

JUDGMENT

1. The present petition is filed against the judgment dated 03.12.2019 (hereafter '**impugned judgment**') passed by the learned Additional Sessions Judge ('**ASJ**'), Saket Courts, New Delhi in CA No. 38/2019 whereby the appeal filed by Respondent No. 2 under Section 29 of the Protection of Women from Domestic Violence Act, 2005 ('**DV Act**') was allowed and the order dated 03.12.2018 passed by the learned Magistrate granting maintenance @4,000/- per month



each to the petitioner and her minor child was set aside.

2. As per the complaint filed by the petitioner under Section 12 of the DV Act, the marriage between the petitioner and Respondent No. 2 was solemnized on 18.02.2011 and one child was born out of the said wedlock. It is alleged that post the marriage of the petitioner, she was constantly subjected to torture at the hands of Respondent No. 2 in relation to demand of dowry. It is alleged that despite having received sufficient dowry, Respondent No. 2 demanded one motorcycle from the petitioner's family. It is alleged that on 19.04.2012, the family members of Respondent No. 2 abused the petitioner. Further, on 20.04.2012, the petitioner was subjected to beatings and also asked to bring a sum of ₹50,000/- for the marriage of the sister of Respondent No. 2. It is also the case of the petitioner that on account of the inability of the petitioner to fulfil the said demand, she was ousted from her matrimonial home on 21.04.2012.

3. By the order dated 03.12.2018, the learned Magistrate noted that the petitioner had failed to establish that she was subjected to any domestic violence. It was noted that the petitioner failed to place on record any police complaint that may have been made by her at the time when the petitioner was dispossessed and has failed to examine any independent witness or family member to corroborate the act of domestic violence.

4. The learned Magistrate however noted that the petitioner was



forced to live separately from Respondent No. 2 since 21.04.2012. It was noted that the negligence of Respondent No. 2 in maintaining the petitioner and their child itself constituted an act of domestic violence as per Section 3(iv) of the DV Act. Consequently, while assessing the income of Respondent No. 2 as ₹20,000/- per month, the learned Magistrate awarded maintenance for a sum of ₹4,000/- each to the petitioner and their minor child.

5. By the impugned judgment, the learned ASJ set aside the order dated 03.12.2018. It was noted that the learned Magistrate itself recorded that the petitioner failed to establish that she was subjected to any cruelty or harassment. It was noted that while the petitioner alleged that she was subjected to harassment in relation to demand for dowry, however, she failed to mention any instance to highlight the time and manner in which she was harassed. It was noted that while the petitioner stated that she was subjected to beatings by Respondent No. 2 and his family members in relation to the petitioner being pressurised to get a sum of ₹50,000/-, however, no witness was examined by the petitioner to corroborate the same.

6. The learned ASJ also considered the allegations of the petitioner that at the time when she was ousted from her matrimonial house, Respondent No. 2 refused to hand over the custody of her son, and that it was only with the help of the Ambedkar Nagar Police that the petitioner was able to get the custody of her minor son. It was further noted that no witness in this regard had been examined by the



petitioner. It was consequently noted that the petitioner failed to substantiate her allegations in relation to demand of dowry or any mental or physical harassment against Respondent No. 2. It was noted that the petitioner left the company of Respondent No. 2 of her own accord. It was noted that the petitioner never alleged that she had asked for maintenance from Respondent No. 2 which was denied so as to attract economic abuse under Section 3(iv) of the DV Act. It was further noted that the petitioner did not indicate that there was any prohibition or restriction on her to have access to the resources that she was entitled to use and enjoy. Consequently, by the impugned judgment, the learned ASJ set aside the order dated 03.12.2018 thereby granting maintenance for a sum of ₹4,000/- per month to the petitioner and her minor child.

7. The learned counsel for the petitioner submitted that the learned ASJ erred in passing the impugned judgment. He submitted that the learned ASJ failed to consider that non payment of maintenance to a non-working wife in itself constitutes economic abuse as per Section 3 of the DV Act. He submitted that the learned ASJ failed to consider that the petitioner made categorical allegations of domestic violence, and that the statement of the petitioner by itself is sufficient to establish such allegations. He submitted that the purview of domestic violence under the DV Act includes economic abuse. He submitted that the petitioner was ousted from her matrimonial house.

8. *Per contra*, the learned counsel for Respondent No. 2 submitted



that the learned ASJ rightly set aside the order dated 03.12.2018 passed by the learned Magistrate thereby granting maintenance @4,000/- per month each to the petitioner and her minor child. He submitted that the learned Magistrate as well as the learned ASJ noted that the petitioner had failed to show that any form of domestic violence was meted out to her.

9. He submitted that the petitioner herself left the company of Respondent No.2. He submitted that since the petitioner failed to show that she was subjected to any form of domestic violence at the hands of Respondent No. 2 and his family members, no maintenance could have been granted to the petitioner.

Analysis

10. It is pertinent to note that the DV Act was enacted with a view to provide effective protection to the rights of women guaranteed under the Constitution who are victims of violence of any kind occurring within the family. Given that the issue of domestic violence is pervasive in nature, a very expansive definition was accorded to the term 'domestic violence'. In doing so, Section 3 of the DV Act defined domestic violence in the following words:

3. Definition of 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, household 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 household 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.

11. An examination of Section 3 of the DV Act makes it manifest that the term ‘domestic violence’ includes economic abuse. The DV Act has defined economic abuse as deprivation of all or any economic or financial resources to which the aggrieved person is entitled to under any law and or which the aggrieved person requires out of necessity including household 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 household and maintenance

12. In the present case, the learned Magistrate, in the petition filed by the petitioner under Section 12 of the DV Act awarded maintenance for a sum of ₹4,000/- per month each to the petitioner and the minor child on the ground of ‘economic abuse’. It was however noted that the petitioner had failed to highlight the manner in which she was harassed. It was noted that the petitioner never made any police complaint of the alleged beatings by Respondent No. 2 and his family members. It was noted that as per the petitioner, she



tolerated the alleged act of cruelty with the hope that Respondent No. 2 would mend his ways, however she failed to specify the exact date, month, year, occasion or time when she suffered such tortures. It was noted that while the petitioner alleged that Respondent No.2's family members had demanded ₹50,000/- on the occasion of the marriage of Respondent No.2's sister, the same had not been proved.

13. By the impugned judgment, the learned ASJ, in the appeal preferred by Respondent No. 2, set aside the order dated 03.12.2018 passed by the learned Magistrate whereby maintenance was granted to the petitioner and the minor child. It was noted that as per the learned Magistrate, the allegations of demand of dowry or physical cruelty/harassment had not been proved.

14. It was noted that the allegations of physical cruelty/harassment or demand of dowry had not been substantiated by the petitioner inasmuch as the petitioner failed to examine any witness in support of her contentions. It was noted that the petitioner had left Respondent No. 2 of her own free will. It was noted that it was not the case of the petitioner that she had asked for any financial help from Respondent No. 2 which was denied by him so as to attract the provision of domestic abuse. Consequently, considering the dearth of necessary evidence, the learned ASJ set aside the order dated 03.12.2018.

15. Upon a scrupulous analysis of the facts of the present case, and the material on record, it is apparent that no explanation has been



offered by Respondent No. 2 as to why the petitioner left his company. It has been urged that the petitioner left Respondent No. 2's company of her own accord. It is however the case of the petitioner that she was ousted from her matrimonial home on account of the petitioner not having been able to fulfil the demand for bringing a sum of ₹50,000/- from her parental home. On one hand, it is urged by Respondent No. 2 that the petitioner left his company of her own will, however, on the other hand, no petition seeking restitution of conjugal rights was preferred by him.

16. It is pertinent to note that the case of the petitioner was brushed aside on the ground that the petitioner had failed to provide the exact date and manner of physical cruelty/harassment. However, merely because the petitioner failed to provide the exact date and time of the alleged tortures does not tantamount to mean that the case of the petitioner is without any basis.

17. It was further noted that the petitioner had failed to show that Respondent No. 2 or his family members had ever made any demand of dowry. From a perusal of the complaint filed by the petitioner under Section 12 of the DV Act, it appears that the petitioner has alleged that Respondent No. 2 had demanded a motorcycle from the family of the petitioner. A perusal of the testimony of Respondent No. 2 before the learned Magistrate further reveals that Respondent No. 2 admitted to having received a motorcycle from the family of the petitioner, and also admitted to being in possession of furniture, washing machine,



sewing machine, almirah, bed, stool, TV and other items of the petitioner. The record further reveals that the petitioner had filed a CAW complaint against Respondent No. 2 and his family members. On such a conspectus of facts, in the opinion of this Court, the case of the petitioner cannot be said to be without any ground.

18. The petitioner has also been raising her minor child, and Respondent No. 2, prior to the passing of the order granting interim maintenance in the petition under Section 12 of the DV Act, had failed to provide any maintenance to the petitioner or the minor child. As already noted by this Court, the term domestic violence encapsulates ‘economic abuse.’ A Coordinate bench of this Court in the case of ***Ajay Kumar v. Uma*: 2024:DHC:80** in relation to the scope of the term ‘domestic violence’ had observed as under

“The ‘domestic relationship’ between the petitioner and complainant is not disputed. ‘Domestic violence’ may be by physical harm or injury endangering the health safety, life, limb, or ‘well being’ which may be mental or physical of ‘aggrieved person’. Further the same includes physical, sexual, verbal, ‘emotional’ and ‘economic’ abuse. The object of the Act is to provide for more effective provisions to safeguard the rights of the women who are victims of violence of any kind occurring within the family, and for matters connected therewith or incidentally thereof.”

19. Admittedly, the petitioner was living separately from Respondent No. 2 since 21.04.2012. As noted above, no explanation was offered by Respondent No. 2 as to why the petitioner left his company except the fact that she did so of her own accord. However,



as already noted, no petition for restitution of conjugal rights was preferred by Respondent No.2. Only a legal notice calling upon the petitioner to join Respondent No. 2's company was sent to the petitioner, which in the opinion of this Court, does not inspire confidence. As noted above, the petitioner has been raising her minor child and is stated to be not gainfully employed. It is also not the case of Respondent No.2 that maintenance was offered by him for upkeep of the Petitioner and the minor child. This Court, thus, is of the opinion that the petitioner is entitled to receive compensation on account of 'economic abuse'.

20. Insofar as the quantum of the compensation is concerned, the learned Magistrate awarded a sum of ₹4,000/- per month each to the petitioner and her minor child. The learned Magistrate assessed the income of Respondent No. 2 as ₹20,000/- per month. This Court is in agreement with the assessment of income of Respondent No. 2 made by the learned Magistrate. As recorded in order dated 29.09.2015, at the time of enhancement of interim maintenance, the learned Magistrate noted that the income certificate of Respondent No. 2 was vague in nature. On one hand, he stated that he was unemployed, however, on the other hand, Respondent No. 2 stated that he was earning only a sum of ₹4,000/- per month. It was noted that Respondent No. 2 had failed to support his income affidavit with any bank account statements. It was further noted that the income affidavit of Respondent No. 2 was vague inasmuch as it did not mention the



place where Respondent No. 2 was working.

21. It is also common knowledge and has been observed by this Court in many cases that it is a normal tendency of the parties, especially in matrimonial disputes to not disclose their true income. The Courts in such circumstances are permitted to make some guess work and arrive at a figure that a party may reasonably be earning (Ref: ***Bharat Hegde v. Saroj Hegde* : 2007 SCC OnLine Del 622**). Consequently, in such circumstances, the assessment of Respondent No. 2's monthly income at ₹20,000/- is correct.

22. This Court in the case of ***Annurita Vohra v. Sandeep Vohra* : 2004 (74) DRJ 99** had observed that the court should initially determine the net disposable income of the Husband or the primary earner within the family. If the other spouse is also employed, those earnings should be taken into consideration. This collective income forms the Family Resource Cake, which is then distributed among the family members. The allocation of this "cake" should align with the financial needs of each family member, and an equitable approach would involve dividing the Family Resource Cake into two portions for the Husband, acknowledging his additional expenses incurred in earning, and one portion each for the other members.

23. Respondent No. 2 has not stated that any family member is dependent on him. Considering that the income of Respondent No. 2 has been assessed as ₹20,000/-, maintenance for a sum of ₹4,000/- per



month to the petitioner and the minor child is not unreasonable.

24. In view of the above, this Court deems it apposite to award maintenance for a sum of ₹4,000/- each per month to the petitioner and the minor child respectively.

25. The present petition is allowed in the aforesaid terms.

AMIT MAHAJAN, J

JULY 28, 2025