IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIM. REVISION APPLICATION NO. 234 OF 2023

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] ...Applicant.

Versus

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2. The State of Maharashtra]
Through Public Prosecutor]
High Court, Bombay.] ...Respondents.

Mr. Vikramaditya Deshmukh and Ms. Sapana Rachure for the applicant.
Mr. Ashutosh M. Kulkarni, Amicus Curiae.
Ms. Jyoti K. Thakker, respondent no. 1 in-peron.

Coram : Sharmila U. Deshmukh, J.

Reserved on : February 12, 2024.

Pronounced on : March 22, 2024.

JUDGMENT :

1. Rule. Rule made returnable forthwith with consent of parties and taken up for final hearing. The Respondent No 1 appears in

person. Vide order dated 14th December 2023, this Court had appointed Advocate Ashutosh Kulkarni as *Amicus Curiae* to assist the Court.

2. The revisional jurisdiction of this Court under section 397 of the Code of Criminal Procedure, 1973 (Cr.P.C) has been invoked by the revision applicant challenging the final judgment and order dated 14th July 2023 passed by the Sessions Court in Criminal Appeal No. 94 of 2023 arising out of the final judgment and order dated 6th January 2023 passed by the metropolitan magistrate in Case No.172/DV of 2027. By the judgment dated 14th July 2023 the Sessions Court has dismissed the appeal declining to interfere with the judgment of the metropolitan magistrate passed in the application filed under section 12 of the provisions of Protection of Women from Domestic Violence Act 2005 [for short "the DV Act"].

FACTUAL MATRIX:

3. The Applicant and the Respondent no.1 are the citizens of USA. The applicant is currently residing in USA whereas respondent no.1 is currently residing in Mumbai. The marriage of the parties was solemnized on 3rd January 1994 in Mumbai and subsequently the marriage ceremony was also performed in USA on 25th November 1994. In the year 2005-2006 the Applicant and Respondent no.1 came

back to India and started residing at Meru Heights, Matunga which property stood in the joint names of parties. After coming back to India, the Respondent no.1 started working with "Capgemini" company at Vikhroli and is employed till date. In the month of May 2008 Respondent no.1 left the matrimonial house at Meru Heights Matunga and started residing with her mother where she is still residing. In the year 2014-15 the Applicant moved back to USA. In the year 2017, the Applicant filed proceedings seeking Divorce in the USA Court and the summons was received by the Respondent No 1 on 15th May, 2017. On 7th July 2017 an application under Sections 12, 17, 18, 19, 20 and 22 of the DV Act was filed by the Respondent No 1 in the Court of Metropolitan Magistrate, 61st Court, Kurla being Application No. 175/DV of 2017. On 3rd January, 2018 the USA Court granted Decree of Divorce dissolving the marriage between the Applicant and Respondent No 1.

4. On 17th October 2018 the interim application of respondent no.1 under section 23 of the DV Act seeking interim relief of maintenance, possession of flat at Meru Heights, restraining orders against the transfer of flat and alternate accommodation and compensation came to be rejected by the Metropolitan magistrate.

PLEADINGS IN THE D.V. APPLICATION:

5. The case of the Respondent No.1 is that the parties were married on 3rd January 1994 and during their honeymoon in Nepal the applicant abused the Respondent no.1 by calling her as second hand as her earlier engagement had broken. On 4th February 1994 the applicant and respondent no.1 went to USA where respondent no.1 was subject to physical and emotional abuse. The applicant cast aspersions on the character of respondent no.1 and levelled allegations of having illicit relationship with other men even with her own brothers. The applicant used to assault respondent no.1 and not let her sleep at night till she confessed to having illicit and adulterous relationship. In November 1999 the applicant picked up a violent fight and assaulted respondent no.1 on her face and hearing the noise, neighbours called the local police and the applicant came to be arrested for domestic violence. The respondent no.1 did not complain to the police however the police noticed scar on her face and *suo moto* took cognizance of the acts of the Applicant and arrested the applicant who was thereafter released on bail by respondent's brother. The Court in Texas granted conditional dismissal with condition to undergo batterer's intervention counselling. In July 2000 when the parents of respondent no.1 were visiting USA where her father suffered a heart attack and had to be hospitalised however the applicant did not permit respondent no.1 to be with her father. In

2005, a flat was purchased in the joint names of the Applicant and Respondent No 1 in Meru Heights at Matunga, India where parties were residing together and the applicant continued levelling allegations against respondent no.1 of having illicit relationship with other men which stretched to even milkmen or vegetable vendors who would come for delivering goods. The Respondent No 1 took the applicant to a leading psychiatrist Dr. Vihang Vahia who diagnosed the applicant as delusional, however, the applicant refused to take treatment and stormed out of the clinic. In May 2008, a major incident of assault took place at the house at Meru Heights Matunga where the applicant tried to suffocate respondent no.1 with the pillow after which incident respondent no.1 called her mother and went to reside with her mother where she is residing till date. It is pleaded that subsequently there were meetings held between the parties, however, the same did not fructify as the applicant was not willing to provide anything for respondent no.1. On 21st, 24th and 27th June 2017 respondent no.1 had gone to their matrimonial house at Meru Heights, Matunga when she found that locks of the house were changed.

6. Initially the application did not include any pleading about stridhan nor sought relief of return of stridhan. By way of an

amendment in the year 2019, a prayer was incorporated in the application for return of her streedhan as enumerated in the schedule annexed to the application for amendment. In addition, the relief of appointment of protection officer to act as a Court Receiver and to hold the assets in his custody was also prayed.

RESPONSE OF THE APPLICANT:

7. The Applicant filed his response to the application. However, for our purpose, the same cannot be considered as the Metropolitan Magistrate discarded the evidence of the Applicant for the reason that he did not make himself available for cross examination, which order attained finality.

EVIDENCE :

EVIDENCE ON BEHALF OF THE RESPONDENT NO 1:

8. The Respondent no.1 through her Affidavit in lieu of evidence has deposed in detail about the various incidents of physical and verbal abuse which had taken place during her stay in USA as well as her stay in India. In paragraph 2, she has deposed about the abuse faced during her honeymoon at Nepal. In paragraphs 3 to 9 she has given detailed deposition about the verbal and physical abuse faced by her in USA. In paragraph 10 she has deposed about the incident of

physical violence which had occurred in November 1999 leading to the arrest of applicant by the Texas police, USA. In paragraph 11 to 13 she has deposed in about the verbal abuse in USA. In paragraphs 14 to 19 of her deposition she has deposed about the continued verbal and emotional abuse faced by her while residing with the Applicant at Meru Heights in India. In paragraph 20 she has deposed about the incident of being suffocated by pillow by the Applicant after being physically assaulted by the Applicant in May, 2008. In paragraph 21 she has deposed about the meetings which had taken place in the parties. In paragraphs 23 and 24 she has deposed about being dispossessed from the matrimonial house Meru Heights Matunga by changing of locks.

9. By way of an additional affidavit of evidence on 7th May 2019, respondent no. 1 has deposed that at the time of filing of the application under the DV Act she was not aware that she was entitled to the recovery of her streedhan and after consultation with the lawyers she realised that she is entitled to jewellery which was gifted to her by her in laws. In paragraph 4 she has deposed that after her marriage, all the jewellery gifted to her by her in laws were taken back by the Applicant's mother and the same is lying with her.

10. The documentary evidence produced by the Respondent No 1

included the Court proceedings in support of the incident of domestic violence which occurred in USA in the year 1999, the income tax returns and the agreement of sale of Meru Heights flat.

11. In the cross examination the respondent no.1 has admitted that she is a USA citizen. She has also admitted that she has certain bank accounts and FD receipts as well as investments. She has admitted that she has no documentary evidence to support the incident which has taken place in Nepal. She has further admitted that she has no police record or medical report to support the incident narrated in paragraph 3 of her affidavit of evidence. She has further admitted that she has not filed any police complaint in USA about the incident and she has no medical certificate or injury certificate of the said violence in USA. She has further admitted that she has no police complaint or medical certificate pertaining to her deposition in paragraphs 6, 7 and 8 of affidavit of evidence. She has further admitted that the Texas Court, USA where the divorce proceedings are filed had jurisdiction. She has further admitted that she has received the copy of divorce decree on 15th January 2018 from the lawyer of applicant and that her application for special appearance has been rejected by the Texas Court. She has further admitted the retirement savings statement which is marked as exhibit 61. She has

further admitted that for the period 2008 to 2017 she did not reside in the flat at Meru Heights Matunga.

MOTHER OF RESPONDENT NO.1:

12. The mother of respondent no.1 has deposed that respondent no.1 had confided in her as regards the emotional and physical abuse that she faced in USA. She has further deposed that her son was residing in USA and had bailed the applicant out of jail after the incident of the year 1999. She has further deposed that in India she was called by respondent no.1 to Meru Heights flat where she saw blood on the bed sheet and that she took respondent no.1 with her from Meru Heights to allow sometime to go by. She has further deposed that the meetings have taken place between the parties however the applicant was not agreeable to provide anything for respondent no.1. In the cross examination she has admitted that the incidents happened in USA were informed to her by respondent no. 1 and that she has never seen the applicant physically or verbally abusing respondent no.1.

UNCLE OF RESPONDENT NO.1:

13. The uncle of respondent no.1 has deposed that he has been informed by the father of respondent no.1 that respondent no.1 was being subject to physical and mental abuse at the hands of the

Applicant. He has further deposed that after coming back to India respondent no.1 had confided in him that the applicant was not allowing her to step out of the house alone and was assassinating her character. He has further deposed that respondent no.1's mother informed him of the incident of violence at Meru Heights of May, 2008.. In the cross examination he has admitted that he was not present during the incidents which has taken place in USA. The witness has deposed voluntarily that he had gone to pick up respondent no.1 and had seen that she was badly beaten. He has further deposed that he has seen the anger tantrums of respondent no.1.

BROTHER OF RESPONDENT NO.1:

14. The brother of respondent no.1 has deposed that in 1999 he was informed about the assault upon the Respondent No 1 and the arrest of the Applicant by local police. He has deposed that he had taken steps to bail the applicant out of jail. He has deposed about seeing that the respondent no.1 was brutally beaten up and her face and eyes were bruised black and blue. He has further deposed that when his father had suffered major heart attack, respondent no.1 was not allowed by her husband to stay at hospital. He has further deposed that there were meetings in India after he had come to

Mumbai to amicably settle the matter however the applicant refused to provide anything for respondent no.1. In the cross-examination, he has voluntarily stated that he has seen the anger tantrums of applicant.

EVIDENCE ON BEHALF OF THE APPLICANT:

15. The affidavit of evidence filed by applicant was discarded by the Metropolitan Magistrate as the Applicant had not made himself available for the cross examination. However in his deposition Applicant has deposed as under:

> *"I say that the applicant learnt of Doctor Vihang Vahia. and informed me that it would help to discuss marital issue with him. I protested that we should see Doctor Vahia as a couple and not alone. Consequently, the applicant complained about me to Doctor Vahia and single handedly fed him a barrage of false and alarming symptoms. Contrary to established psychiatric procedure relying only on verbal protest from the applicant, the so called doctor was quick to pronounce an incorrect diagnosed based on a single visit. The applicant violated my rights, made copies of the diagnosis and claimed victory in society of having secured proof of my alleged illness."*

16. Although the evidence of applicant has been discarded by the magistrate, the said deposition is being reproduced for the reasons to be discussed later.

MOTHER OF APPLICANT:

17. The mother of applicant has deposed that respondent no.1 neglected her own household to settle her brother comfortably. She has further deposed that respondent no.1 pressurised the Applicant to demand money from his father causing the couple to be at odds. She has further deposed that USA Court has already granted divorce to the parties. In cross examination she has deposed that she is giving evidence in a case for divorce. She has further admitted about the meetings of settlement which had taken place between the parties. She has admitted that she is staying in Meru Heights, Matunga since 12 -18 months and the applicant is in USA. She has admitted that she has no personal knowledge about what has happened between the applicant and respondent no.1. She has further admitted that she is not aware as to who prepared the affidavits. She has identified the photographs shown to her and has identified respondent no.1 wearing the diamond set in photograph no.1, respondent no.1 wearing red and green meenakari work gold set in photograph no 2 and photograph no. 3 in which her brother in law was gifting the

diamond set which respondent no.1 was wearing in photograph no.1. She has identified the ornaments gifted to respondent no.1 during her marriage. She has further admitted that these ornaments are kept in locker as she had advised the applicant and respondent no.1 that it is not safe to carry them with them to USA.

BROTHER OF APPLICANT:

18. The brother of applicant has deposed that the ornaments which were claimed by respondent no.1 were loaned to her for wearing in the wedding rituals as per tradition. He has produced the photographs of his wife as well as his younger sister in law during their respective weddings wearing the same jewellery. He has further deposed that during his mother's deposition which was through video conferencing he has heard his mother depose in her local language Kutchi that she had given the jewellery only to wear in the wedding and the same has been translated wrongly to read that the jewellery was gifted to her. In the cross examination he has admitted that he has never visited the applicant and respondent no.1 in USA. He has further admitted that his younger brother was married after a period of 4 years of the marriage of applicant and respondent no.1 and the younger sister in law was not present in the marriage of applicant and respondent no.1.

SISTER IN LAW OF APPLICANT :

19. She has deposed that she was given the same jewellery to wear during her wedding on 3rd December 1999 which showed that respondent no.1 had returned the jewellery as agreed. She has further deposed that it is the custom in community of the family that the brides are given jewellery along with their bridal attire by their in laws and the jewellery has to be returned back to them. In the cross examination she has deposed that she is not possessing any jewellery claimed by the applicant and the jewellery is in possession of the mother of applicant.

UNCLE OF APPLICANT:

20. He has deposed that the jewellery was not a gift from the mother of applicant to respondent no.1. He has deposed that it was agreed that the jewellery will be returned to the mother of applicant after the wedding ceremony is over. In the cross examination he has admitted that he has no document to show that the jewellery was loaned and that the jewellery is in his position and the applicant's mother is the owner of the jewellery.

BROTHER OF APPLICANT:

21. He has deposed that the incident of the year 1999 appears to be

fictitious and fabricated and the applicant's signature appears to be forged. He has further deposed that the jewellery was not gifted to respondent no.1 but was loaned to be worn during the wedding ceremony and as per the understanding between respondent no.1 and his mother the jewellery was to be returned to his mother after the ceremony, which respondent no.1 did. He has further deposed that the same jewellery was worn by his wife as also the younger sister in law. In the cross examination he has admitted that his mother is in possession of the jewellery.

JUDGMENT OF THE TRIAL COURT:

22. The trial Court by the judgment dated 6th January 2023 granted the following reliefs :

> "1. Application Case No. 172/DV/2017 is partly allowed.
>
> 2. It is held that the applicant/aggrieved person was subjected to domestic violence at the hands of respondent.
>
> 3. The respondent is hereby prohibited from committing any act of domestic violence. Aiding or abetting in the act of commission of domestic violence against the applicant/aggrieved person.
>
> 4. The prayers of the applicant/aggrieved person to restore possession of the flat located at Meru

Heights, 208, Telang road, Matunga, Mumbai and permission to stay therein are hereby rejected.

5. The respondent is directed to provide a suitable accommodation i.e. one residential flat of at least 1000 square feet carpet area to the applicant/aggrieved person at Matunga./Dadar in Mumbai within a period of two months from the date of this order. Alternatively, he is directed to pay amount of Rs. 75,000/- (Rupees Seventy Five Thousand only) per month to the applicant/aggrieved person towards house rent to be paid on or before 5th date of each month from the next month i.e. February 2023.

6. Respondent is directed to return all jewelry (stridhan) and other belongings (as per list attached with the application) to the applicant /aggrieved person within a period of two months from the date of this order.

7. The respondent is directed to pay amount of Rs. 1,50,000/- (Rupees one lakh fifty thousand) per month to the applicant / aggrieved person towards maintenance from the date of filing this application i.e. from 07.07.2017.

8. The respondent is directed to pay amount of Rs. 3,00,000,00/- (Rupees Three Crores only) to the applicant / aggrieved person towards compensation within a period of two months from the date of this order.

9. The respondent is further directed pay cost of Rs. 50,000/- to the applicant/aggrieved person within a period of two months from the date of this order."

23. The trial Court has summarised the incidents of domestic violence as stated in the application as under:

"a) During their honeymoon, respondent called her as " Second Hand" as her engagement with other person was broken.

b) In the U.S.A continuous acts of domestic violence such as suspicion on her character and making false allegations of illicit relationship with other man. Beating her till she confessed for the same.

c) He used to make fights and abused her.

d) Picked up quarrels on trifle counts. Toppled down dining table. He threw flower pot towards her and as such she sustained injury on her head.

e) In the year 1999, made huge noise in house. Neighbors called police. He was arrested by USA police and released from jail conditionally to complete course on domestic violence.

f) In the year 2020, her father visited U.S.A and stayed at her brother's house. Respondent did not allow to visit her father.

g) After arrival in India in the year-2006, respondent continuously harassed her mentally, physical and

emotionally.

h) In the month of May 2008, respondent tried to suffocate her by covering her face.

i) Respondent left for U.S.A permanently without providing for her maintenance in the year 2014.

j) Prior to that changed the lock of their flat and on 21.06.2017 prevented applicant from entering in the house.

k) Respondent filed divorce petition in U.S. Court. Her appearance was denied. Said petition was allowed ex-parte in the year 2018.

l) Performed marriage with another lady namely Kiran during the subsistence of their marriage."

24. The Trial Court noted the evidence of the Respondent No 1 as regards incidents of domestic violence which were corroborated by her mother, brother and uncle. The Trial Court held that it has been admitted that the incidents were told by respondent no.1 to them and the same are hearsay, however, as they are family members of respondent no.1 their testimonies are relevant to some extent. As regards the witnesses of applicant, the trial Court noticed that the applicants evidence has been discarded and the witnesses examined by him have not witnessed any incident and their testimonies are

hearsay. The trial Court dealt with the objection raised by the applicant as regards the jurisdiction and after considering section 27 of the DV Act, held that the Court has the jurisdiction. As regards the objection of limitation, the Trial Court relying upon the decision of the Apex Court in the case of ***Prabha Tyagi v. Kamlesh Devi [(2022) 8 SCC 90]*** held that the application was filed within limitation. Trial Court also dealt with the submission as regards the decree of divorce granted by the Court in USA and held that respondent no.1 was not allowed to appear in those proceedings and as such the principles of natural justice were not followed. The trial Court noted the deposition of respondent no.1 as regards the incident of domestic violence. Taking note of the incident of domestic violence which had taken place in the year 1999 the trial Court noted that the applicant had completed his course as per the directions of the Court in USA. The trial Court held that the police complaint was filed as regards the change of locks of Meru Heights flat at Matunga. Noting that there was no provision for maintenance made, the Trial Court held that the respondent no. 1 was subject to economic abuse as also domestic violence. The Trial Court declined to grant relief of possession of flat at Meru Heights, Matunga and directed payment of Rs 75,000/ per month towards separate alternate accommodation. After comparing the income of the parties, a sum of ₹1,50,000/- was directed to be

paid towards the maintenance. As regards the jewellery, the trial Court considered admissions in the evidence of the mother of applicant as well as the photographs which have come on record which showed that respondent no.1 was gifted the said jewellery which was kept in Mumbai in bank locker and as such held that respondent no.1 is entitled to the same. On the issue of quantum of compensation the trial Court considered the documentary evidence which has come on record regarding the income of applicant and directed the appellant to pay compensation of ₹3,00,00,000/- [Rupees Three Crore only] to respondent no.1.

FINDINGS OF THE APPELLATE COURT :

25. The appellate Court considered the objection as regards the applicability of DV Act to the parties as they are the citizens of USA. The appellate Court relied upon the decision in the case of ***Sumeet Ninave v. Himani Sumeet Ninave [2023 ALL MR (Cri) 2198]*** holding that the consequence of the trauma suffering and distress carried by the complainant to her parental home is sufficient to file application under the provisions of DV Act in view of section 1 of the DV Act. The appellate Court noted that there are allegations against the applicant of causing domestic violence in India during their stay in 2006 to 2008 and dismissed the objection on the point of jurisdiction and

applicability. As regards the objection of absence of subsisting domestic relationship between the parties as the divorce decree has been granted by the American Court, the appellate Court held that the application under the provisions of DV Act was filed on 7th July 2017 and the decree of American Court is passed on 3rd January 2018 and at the time of application, there was subsisting domestic relationship. On the issue of inordinate delay, the appellate Court relied upon the decision of the apex Court in the case of ***Kamatchi v. Lakshmi Narayanan [2022 SCC OnLine SC 446]*** that there is no limitation for filing of an application under the provisions of the DV Act. As regards the incidents of domestic violence which have been pleaded by respondent no.1, the appellate Court noted the evidence that applicant was diagnosed as schizophrenic patient and he used to assault her in USA as well as in India. The appellate Court noted that there was no challenge to the evidence adduced by respondent no.1 about the domestic violence as the evidence of applicant had been discarded. The appellate Court held that there is sufficient evidence on record to prove the domestic violence. On the issue of maintenance the appellate Court considered the comparative incomes and considering that at the age of 55 years respondent no.1 has lost her matrimonial relationship and there is no further prospects and held that considering the income and assets of the applicant it cannot

be said that the amount of maintenance, rent or compensation is excessive. Upholding the findings of the Metropolitan Magistrate, the appellate Court dismissed the Appeal.

SUBMISSIONS OF MR. DESHMUKH, LEARNED COUNSEL FOR THE APPLICANT:

26. Mr. Deshmukh learned counsel for the applicant would submit that the DV proceedings were filed only as a counter blast to the divorce proceedings which is evident from the fact that it has been filed after receipt of summons from USA Court. According to him, the prayers in the DV application are primarily for restoration of possession of "Meru Heights" flat. Interpreting Section 2(f) of DV Act, he would submit that definition of domestic relationship has to be interpreted in a meaningful manner and should have a reasonable nexus with the cause of action and filing of the DV application and as in the present case the parties are separated since, 2008, there was no subsisting domestic relationship.

27. Distinguishing the judgments relied upon by the Respondent no.1 who appears in person as well as learned *Amicus Curiae*, he submits that in the factual scenario in those cases, there was existence of domestic relationship as the applications were filed in close proximity to the separation. He would contend that in view of

section 1(2) of the DV Act, the Act does not have territorial jurisdiction over the acts alleged to have been committed in USA. He distinguishes the decision of ***Sumeet Ninave (supra)*** by contending that the decision in turn relies upon the decision in the case of ***Rupali Devi (supra)*** which was concerned with the provisions of section 498A of the IPC and does not deal with section 1(2) of the DV Act at all and the decision in the case of ***Mohammad Zuber Farooqi (supra)*** wherein it is expressly stated that the observations are *prima facie* in nature and confined to the adjudication of the said decision and the 3rd judgment is the case of ***Hima Chugh (supra),*** which according to the learned counsel for the applicant is *per incuriam* as it does not notice the provisions of section 1(2) of the DV Act.

28. As regards the reliance placed by Mr. Kulkarni learned *Amicus Curiae* on the decision in the case of ***Abhishek Jain v. Ruchi Jain [2023 SCC OnLine Bom 1257]*** , he submits that the same is authored by the same judge who authored the decision in the case of ***Sumeet Ninave (supra)***. He further distinguishes the decision of ***Robarto Nieddu v. State of Rajasthan [2021 SCC Online Raj 4345]*** by pointing out that the single act of domestic violence has taken place in Jodhapur and there was no incidence of domestic violence overseas in that case. As regards the decision in the case of ***Gajanan Parashram***

Rathod v. Surekha Gajanan Rathod [This Court in Crim. Revision Appl. (Aurangabad) No. 290 of 2018, decided on 24th January 2023] he would contend that in that case there was specific report of the protection officer which held that the domestic violence which was committed. He also distinguished the judgment of the Apex Court in ***Juveria Abdul Majid Patni v. Atif Iqbal Mansoori [(2014) 10 SCC 736]*** and would contend that the facts of the case are clearly distinguishable in as much as in that case the Apex Court has held that since there was no divorce between the parties the domestic relationship subsists and the wife was entitled to claim relief. He submits that the discussion in the case of ***Juveria Abdul Majid Patni (supra)*** from paragraph 18 onwards did not arise for consideration as a reading of the opening words of paragraph 18 would indicate that the same deals with a hypothetical case. He submits that to determine as to whether the observations from paragraph no. 18 would constitute *ratio decidendi,* inversion test as held in the case of ***State of Gujarat v. Utility Users Welfare Association [(2018) 6 SCC 21]*** will have to be applied and by applying this test, the observations of the Apex Court in ***Juveria Abdul Majid Patni (supra)*** are *obiter* which is not binding on this Court. He would further submit that the decision in the case of ***Krishna Bhattacharjee v. Sarathi Choudhury [(2016) 2 SCC 705]*** specifically holds that the status of the parties is different

after the decree of divorce is passed and the wife no longer remains an aggrieved person. He would also distinguish the decision in the case of ***Prabha Tyagi (supra)*** as the facts were completely different.

29. On the merits of the matter he would submit that respondent no.1 has failed to prove the acts of domestic violence in USA. Pointing out to the admissions given in the cross examination by respondent no.1 he would contend that there are no Police Complaints nor medical reports produced to show that she was assaulted by the applicant in USA. He would further point out the admission given by respondent no.1 that the allegations made in paragraph 6 to 8 in her affidavit of evidence there is no police complaint or medical certificate to support the allegations.

30. As far as the acts of domestic violence alleged in India, he would submit that as regards being diagnosed delusional, the same is not established as Doctor Vahia has not been examined as witness and this aspect has not been corroborated by any other witness examined on behalf of respondent no.1. He submits that the sole basis for making allegation is the OPD receipt in respect of the consultation in the year 2007 and there is no medical report produced to support the case of the applicant being delusional. He submits that despite the absence of documentary evidence corroborating the allegations of

respondent no.1, the Sessions judge has accepted the same as a proven fact. He would further submit that there is no admission by the Applicant in his affidavit of evidence and in fact it is the specific deposition that he was not diagnosed as per the medical protocol nor was he asked to go for any treatment.

31. He would further submit that in respect of the other incident is as regards the suffocation by pillow in May 2008 there is an admission by respondent no.1 that she has neither filed any police complaint nor produced any medical report in support of her contention. As regards the change of locks he submits that the same cannot constitute an act of domestic violence in view of the admission of respondent no.1 that she visited the said flat for the first time after 2008 only in 2017. He would submit that based on the same cause of action respondent no.1 has filed a partition suit which is pending in which the Court receiver has been appointed and there is an order of injunction against the applicant. He submits that the incident in question is purely civil in nature for which respondent no.1 has exercised her civil rights.

32. On the issue of compensation of ₹3,00,00,000/- [Rupees Three Crore only] granted, he would submit that there was no prayer for award of compensation. Pointing out to section 22 of the DV Act, governing the grant of compensation, he submits that there has to be

a specific finding as regards the injuries, mental torture and emotional distress which are caused by the acts of domestic violence committed by the applicant. He would contend that the only finding on the domestic violence is the change of locks for which awarding of compensation of Rs.3,00,00,000/- is excessive. He submits that the findings of appellate Court in paragraph 57 are not supported by any material as to which were the acts of domestic violence continuously from the year 1994 to 2017 when admittedly the parties have not lived together since 2008.

33. On the issue of return of streedhan, he would contend that it is the own case of respondent no.1 that her streedhan is with the mother of the applicant and the mother of applicant not being made a party, no relief of return of streedhan can be granted qua the applicant.

34. Without prejudice he submits that the deposition of the mother of appellant will have to be appreciated against the factual background of the mother being 79 years of age, not in a position to understand the questions put to her. He submits that stridhan has been awarded on the basis of solitary statements in the cross examination of mother of the Applicant where the mother has said that she identifies ornaments gifted to Jyoti during the marriage. He

would further submit that the impugned order has not appreciated the evidence adduced on behalf of the Applicant, i.e., the brother, the uncle and the sister in law. Pointing out to the evidence adduced by the applicant he would submit that the evidence of the sister in law and uncle as well as the photographs which are produced on record would show that the same jewellery is worn by other daughters in law and thus the jewellery cannot be claimed as streedhan by respondent no.1.

35. On the issue of maintenance he would submit that respondent no.1 is earning Rs 1,31,861/ per month apart from other benefits. To substantiate that the Respondent No 1 is not required to be granted monthly rentals, he would contend that the parties had jointly purchased a flat at Gurgaon. Pointing out to the statements of earnings and savings with AA Credit Union Exhibit-"61", he would contend that as on 31st December 2008 there was balance of $159,943 of which the Respondent No 1 is a joint owner and the retirement savings statement has come on record as Exhibit 31 which shows the respondent no.1's savings at $143,630 which is equivalent to Rs 1.20 crores on which respondent no.1 is earning interest.

36. Relying upon the decision in the case of ***Rajnesh v. Neha [(2021) 2 SCC 324]*** he would submit that there is no reason given as to

what are other expenses incurred by respondent no.1 or loss suffered by her as a result of the domestic violence and as there are no reasons given as to any loss suffered due to destruction, damage or removal of the property from the control of respondent no.1. Pointing out to the decision of ***Rajnesh V Neha (supra)*** in paragraph no. 78, he submits that the finding supports the case of applicant. In support he relies upon the following decisions:

[a] ***Rupali Devi v. State of U.P. [(2019) 5 SCC 384];***

[b] ***Mohammad Zuber Farooqi v. State of Maharashtra [2019 All MR (Cri) 4315];***

[c] ***Juveria Abdul Majid Patni v. Atif Iqbal Mansoori [(2014) 10 SCC 736];***

[d] ***Prabha Tyagi v. Kamlesh Devi [(2022) 8 SCC 90];***

[e] ***Harbans Lal Malik v. Payal Malik [2010 (118) DRJ 582];***

[f] ***Hima Chugh v. Pritam Ashok Sadaphule [2013 SCC OnLine Del 1408];***

[g] ***Harish Loyalka v. Dilip Nevatia [2014 SCC OnLine Bom 1640];***

[h] ***Rajnesh v. Neha [(2021) 2 SCC 324];***

[i] ***Arun Kumar Aggarwal v. State of M.P. [(2014) 13 SCC 707];***

[j] ***State of Orissa v. MD. Illiyas [(2006) 1 SCC 275];***

[k] ***Divisional Controller KSRTC v. Mahadeva Shetty [(2003) 7 SCC 197];***

[l] ***State of Gujarat v. Utility Users Welfare Association [(2018) 6 SCC 21];***

[m] ***Sumeet Ninave v. Himani Sumeet Ninave [2023 ALL MR (Cri) 2198]***

SUBMISSIONS OF MR. ASHUTOSH M. KULKARNI, LEARNED AMICUS CURIAE *:*

37. Learned *Amicus Curiae* would submit that the object of DV Act will have to be taken into consideration which is a beneficial legislation. He would submit that section 2(a) and 2(f) of the DV Act deals with the definition of aggrieved person and domestic relationship which indicates that the requirement is that the parties were living or had lived at any point of time together in a domestic relationship which is satisfied in the present case as admittedly the parties had resided together in a domestic relationship. Pointing out to the definition of monetary relief in section 2(k) he would submit that definition of monetary relief is linked to compensation under section 22 of the DV Act. He would submit that there is no fixed strait jacket formula to determine the amount of compensation which is to paid and it is a recompense for the injuries caused by the acts of domestic violence including mental torture and emotional distress. He

would further summit that submissions of the learned counself appearing for the revisional applicant would entail re-appreciation of the evidence which is not permissible in revisional jurisdiction under Section 397 of the CrP.C. Pointing out to the findings of trial Court and appellate Court he would submit that there are concurrent findings that case of domestic violence is being made out which is a *sine qua non* for grant of relief. He submits that the applicant's evidence has been discarded and as such there is no challenge to the evidence of respondent no.1-wife. He submits that in the cross examination there is no specific suggestion given and there are only general denials. He points out to the affidavit of evidence and submits that oral deposition of respondent no.1 constitutes evidence and it is not necessary that the same has to be corroborated with the documentary evidence particularly in case of domestic violence. He submits that the time gap between 2008 and 2017 has been sufficiently explained by respondent no.1 as it is that the meetings were held between the parties.He submits that the quantum of compensation cannot be interfered in revisional jurisdiction.

38. He would contend that in the case of ***Prabha Tyagi (supra)*** the Apex Court has gone one step further and has also considered the past acts of domestic violence. He submits that there is subsisting

domestic relationship as on the date of filing of the application and the decree of divorce was passed only on 3rd January 2018. He submits that from the year 2008 there is deprivation and as such the same was taken into consideration while determining the quantum of maintenance. He submits that there is no warrant to interfere with the quantum of maintenance as the comparative incomes would indicate the huge disparity and the respondent no.1 is entitled to the same standard of living as that of the applicant.

39. On the issue as to the return of streedhan, learned *Amicus Curiae* would submit that the mother is not a stranger to the family and although she is not made party to the proceedings, a direction can be given to her to return the streedhan and it is the question of execution which cannot be interfered with in the revisional jurisdiction. On the issue of jurisdiction, learned *Amicus Curiae* points out the provisions of section 27(2) of the DV Act which provides that any order shall be enforceable throughout India. He submits that section 1(2) read with section 27(2) would indicate the applicability of the DV Act.

40. In support he relies upon the following decision:

Abhishek Jain v. Ruchi Jain [2023 SCC Online Bom 1257]

SUBMISSION OF RESPONDENT NO.1-PARTY IN PERSON:

41. Respondent No.1 would submit that there is no illegality or irregularity pointed out in the concurrent findings of fact. She submits that it is necessary that on the date of filing of application, the parties are required to be in domestic relationship as held by the Apex Court in the case of ***Prabha Tyagi (supra)***. She submits that the Applicant has admitted that there was domestic relationship between the parties from 1994 to 2008 and the time gap between 2008 to 2017 has been explained by reason of the meetings held to resolve the issue. She submits that the trial Court and the Appellate Court has dealt with the objections of maintainability, limitation and jurisdiction and have negated the same. Pointing out to the order of trial Court, she would submit that the Metropolitan Magistrate has merely summarised the incidents. She submits that the Affidavit of Evidence has set out in detail each and every incident which had taken place in USA as well as India. She has taken this Court in detail through the application under the DV act as well as the affidavit of evidence filed. She submits that it is not a case of solitary incident of abuse but the verbal emotional and physical abuse has continued throughout the marriage. She would further submit that she was dispossessed from the joint property of Meru Heights in the year 2017 subsequent to which the case of domestic violence was filed. She submits that the

applicant has remarried in the year 2019 in USA and as such there is apprehension that the joint assets will be alienated.

42. She submits that the acts of domestic violence on foreign soil has been dealt with by the learned single judge of this Court in the case of ***Sumeet Ninave (supra)*** which has not been yet set aside and the same constitutes law which is binding on this Court. As regards the applicability of DV Act to the foreign citizens, she submits that in case of ***Robarto Nieddu v. State of Rajasthan (supra)*** the parties were Canadian nationals. She would further submit that the Courts in Texas have not decided the issue of domestic violence as the complaint was filed by the State of Texas and not by respondent no.1 and thus there was no adjudication.

43. On the issue of foreign decree of divorce being binding, respondent no.1 submits that it is not necessary to go into the conclusiveness of a foreign judgment, for the reason that the application has been filed on 7th July 2017 and the decree of divorce has been granted on 3rd January 2018.

44. On the aspect of *stridhan*, respondent no.1 has taken this Court through the evidence of mother of applicant admitting that the jewellery was gifted to the Applicant during her marriage and the

jewellery is in possession of the Applicant's mother. Pointing out to the applicant's case in the written statement and affidavit of evidence that respondent no.1 has taken away all the *stridhan* at the time of leaving her matrimonial house, she submits that it is the moral and legal responsibility of revisional applicant to return her *stridhan* even if the mother is not a party to the proceedings. She submits that no such submission was raised before the trial Court or the appellate Court and the same is being raised before this Court for the first time.

45. She submits that the mother of applicant had moved into Meru Heights flat about 20 months after the proceedings under the DV Act was filed, only to deprive respondent no.1 of her rights in the said flat. She submits that the refusal of financial support and changing the locks of jointly owned property amounts to economic abuse. As regards the contention that the applicant is being wrongly diagnosed as delusional on the basis of single report, respondent no. 1 points out the affidavit of evidence of the applicant in which there are admissions as regards visit of the parties to Dr. Vihang Vahia and the Applicant being diagnosed as delusional. Relying upon the decision of this Court in the case of ***Banganga CHS Ltd v. Vasanti Gajanan Nerurkar [2015 (4) ABR 639],*** respondent no. 1 submits that even if the affidavit is discarded, the admissions made in the said affidavit can

be used.

46. She submits that along with Exhibit 61, which is the statement, a list has been tendered which has been referred to in the order of magistrate and the same is not admitted in the evidence. On the issue of compensation of ₹3,00,00,000/-. respondent no.1 submits that for the period between 1994 to 2008 there has been a constant mental, physical and emotional abuse; she has been abandoned without any support and she has been residing with her mother since the year 2008. She submits that as there was no provision made by the applicant for her maintenance and for her accommodation, there has been an economic deprivation for a period of almost 15 years and, as such, the compensation of ₹3,00,00,000/- has been rightly granted. She summits that compensation can be linked to the income of applicant.

47. In support of her submissions, she relies upon the following decisions:

[a] ***Robarto Nieddu v. State of Rajasthan [2021 SCC OnLine Raj 4345];***

[b] ***Gajanan Parashram Rathod v. Surekha Gajanan Rathod [2023 ALL MR (Cri) 1369];***

[c] ***Banganga CHS Ltd v. Vasanti Gajanan Nerurkar [2015 (4)***

ABR 639];

[d] ***Shalini v. Kishor [AIR 2015 SC 2605];***

[e] ***Saraswathy v. Babu [AIR 2014 SC 857];***

[f] ***Sri. B. Vinod v. State of AP [Decision of AP High Court in Crim. Rev. Case No. 2428 of 2018 dtd 31st December 2019];***

[g] ***J. Karthikeyan v. R. Preethi [Decision of Madras High Court in Cri. R.C. No. 675 of 2012, dtd. 19th June 2019];***

[h] ***Sau. Aruna Omprakash Shukla v. Omprakash D. Shukla [2021(3) Bom CR (Cri) 247].***

SUR-REJOINDER BY MR. DESHMUKH

48. In sur-rejoinder Mr. Deshmukh would contend that it is not necessary for a specific case to be put up to respondent no.1 in the cross examination. He distinguishes the decision in the case of ***Gajanan Parashram Rathod v. Surekha Gajanan Rathod (supra)*** as the same is on a misreading of the decision of the Apex Court of ***Prabha Tyagi (supra)***. He submits that even if it is held that the admissions in the discarded evidence can be considered there is no admission on the part of applicant. Distinguishing the decision in the case of ***Shalini vs Kishor (supra)*** he submits that in that case there was no divorce and no argument of subsisting domestic relationship. He submits that the acts committed overseas cannot be looked as the applicability of DV Act is restricted to India. He submits that there is

already a partition suit filed by respondent no.1 and the respondent no. 1 has not been left remedy-less.

ANALYSIS AND REASONS:

49. I have considered the rival submissions and have minutely perused the record.

50. The revisional jurisdiction of this Court has been invoked under Section 397 of the Code of Criminal Procedure, 1973, which reads as under :

> "(1) The High Court or any Sessions Judge may call for and examine the record of any proceeding before any inferior Criminal Court situate within its or his local jurisdiction for the purpose of satisfying itself or himself; to the correctness, legality or propriety of any finding, sentence or order, recorded or passed, and as to the regularity of any proceedings of such inferior Court, and may, when calling, for such record, direct that the execution of any sentence or order be suspended, and if the accused is in confinement that he be released on bail or on his own bond pending the examination of the record.
>
> *Explanation.*---All Magistrates, whether Executive or Judicial, and whether exercising original or appellate jurisdiction, shall be deemed to be inferior to the Sessions Judge for the purposes of this sub-section and of section 398.
>
> (2) The powers of revision conferred by sub-section (1) shall not be exercised in relation to any interlocutory order passed in any appeal, inquiry, trial or other proceeding.
>
> (3) If an application under this section has been made by any person either to the High Court or to the Sessions Judge, no further application by the same person shall be entertained by the other of them."

51. The contours of the revisional jurisdiction under Section 397 of Cr.P.C has been enunciated by the Apex Court in case of ***Sanjaysinh***

Ramrao Chavan vs Dattatray Gulabrao Phalke (2015) 3 SCC 123

where the Apex Court has held as under:

> *"Unless the order passed by the Magistrate is perverse or the view taken by the court is wholly unreasonable or there is non- consideration of any relevant material or there is palpable misreading of records, the revisional court is not justified in setting aside the order, merely because another view is possible. The revisional court is not meant to act as an appellate court. The whole purpose of the revisional jurisdiction is to preserve the power in the court to do justice in accordance with the principles of criminal jurisprudence. Revisional power of the court under Sections 397 to 401 of Cr.PC is not to be equated with that of an appeal. Unless the finding of the court, whose decision is sought to be revised, is shown to be perverse or untenable in law or is grossly erroneous or glaringly unreasonable or where the decision is based on no material or where the material facts are wholly ignored or where the judicial discretion is exercised arbitrarily or capriciously, the courts may not interfere with decision in exercise of their revisional jurisdiction"*

52. It is clear that the powers of revision are not meant to be exercised as an appellate power unless the findings are so perverse or untenable in law that the Court is bound to step in and exercise the revisional jurisdiction to do substantive justice. Before proceeding to deal with the submissions of the parties, it will be profitable to examine the legislative intent behind enactment of the DV Act. The Statement of Objects and Reasons describes that domestic violence is undoubtedly a human rights issue and serious deterrent to development. The phenomenon of domestic violence is widely

prevalent but has remained largely invisible in the public domain. The law was enacted to protect the constitutional rights of women and to provide remedy under civil law which is intended to protect the women from being victims of domestic violence and to prevent the occurrence of domestic violence in the Society.

53. For the first time, a beneficial legislation has recognised and defined "Domestic Violence" , a violence which usually occurs within the four walls of the house and rarely finds a voice or is addressed. To use the metaphorical idiom, the elephant in the room has been addressed by this legislation. It is well known that acts of domestic violence transcends all strata's of society. The DV Act provides for civil remedies of residence orders, protection orders, compensation, monetary relief etc to the aggrieved person. The Act provides for appointment of protection officers and registration of non governmental organisations as service providers for providing assistance to the aggrieved person. An expansive definition is given under Section 3 of DV Act to "domestic violence" to encompass not only physical abuse but also sexual abuse, verbal and emotional abuse and economic abuse. The definition of domestic relationship takes within its fold even a relationship between two persons in nature of marriage. While interpreting the provisions of the DV Act, considering

the beneficial nature of legislation an interpretation which will further the object of the DV Act will have to adopted.

54. With this background, the submissions of the parties will have to be appreciated. Mr. Deshmukh, learned counsel for the revisional applicant has advanced submissions on law as well as on facts. I shall firstly deal with the legal submissions raised in the case as the same pertains to the jurisdiction of the Court to entertain the DV application in the first place. The conspectus of the legal submissions advanced by Mr. Deshmukh can be broadly stated as under:

(A) There is no subsisting domestic relationship for the reason that the parties were residing separately since the year 2008.

(B) By reason of passing of decree of divorce on 3rd January, 2018 by the USA Court, as on the date of passing of the impugned judgment by the Magistrate there was no domestic relationship.

(C) In view of section 1(2) of the DV Act which extends the applicability of the Act to the whole of India except the State of Jammu and Kashmir read with section 27 of the DV Act which gives the jurisdiction to the magistrate, the Act does not have extra-territorial jurisdiction and the acts of domestic violence committed on foreign soil, cannot be taken into consideration while adjudicating the DV application.

55. The other submissions of Mr. Deshmukh, would be subsumed in the above broadly summarised submissions.

56. The first submission is that by reason of long standing separation since the year 2008, there is no subsisting domestic relationship. It will be relevant to have a look at the definition of domestic relationship as defined under section 2(f) of DV Act, which reads thus :

> (f) **"domestic relationship"** means a relationship between two persons who live or have, at any point of time, lived together in a shared household, when they are related by consanguinity, marriage, or through a relationship in the nature of marriage, adoption or are family members living together as a joint family;

57. Thus, domestic relationship is defined to mean a relationship between two persons who live or "*have at any point of time*" lived together in a shared household when they are related by marriage. The words "*or have lived at any point of time together*" assumes considerable significance as the residence together is not required to be *in praesenti* but extends to past residence. The contention of Mr. Deshmukh is that the words have to be interpreted in a meaningful

manner to have a reasonable nexus with cause of action and consequent filing of DV Application. To put it simply, Mr. Deshmukh interprets the words " *or have lived at any point of time together"* to be referable to a point of time in close proximity to the filing of application under the DV Act.

58. This issue came up for consideration of the Apex Court in the case of ***Shalini vs. Kishor (supra).*** In the facts of that case, the complaint was made 15 years after the couple had started residing separately. The parties were married in the year 1990 and the wife was driven out of the matrimonial house in the year 1992. In the year 1994 an application for maintenance was made and after coming into force of the DV Act, the application under section 1(2) of the DV Act was made in the year 2007. An identical contention was raised on behalf of the husband that parties were admittedly not living together for a period of 15 years and there is no question of shared household in case where parties are residing separately for a long time. The Apex Court considered various provisions of the DV Act and noted its earlier decision in ***V D Bhanot vs. Savita Bhanot [2012(3) SCC 965***] as well as the decision in the case of ***Saraswathy vs. Babu [(2014) 3 SCC 712]*** where the wife was driven out of the matrimonial house about 14 years before the complaint was filed and it was held

that the conduct of the parties prior to the coming into force of DV Act can be taken into consideration while passing the order. When the dictum of the Apex Court is that even acts of domestic violence committed prior to the coming into force of DV Act can be taken into consideration, the submission of Mr. Deshmukh that separation of period of 9 years would end the domestic relationship is liable to be rejected. The judicial pronouncement is also in consonance with the legislative intent manifested in the provisions of DV Act which empowers grant of monetary reliefs, compensation and damages for the injuries including mental torture and emotional distress caused by acts of domestic violence committed by the Respondent. As there is an element of recompense for the mental torture and emotional distress, the period of long separation cannot enure to the benefit of the Respondent alleged to have committed the acts of domestic violence. I am therefore not inclined to accept the submission of Mr. Deshmukh that there has to be reasonable nexus referable to the time period between the acts of domestic violence and the relief granted.

59. Distinguishing the judgment in ***Shalini (supra)*** Mr. Deshmukh would contend that in that case the divorce was stayed by the appellate Court. The matter is of no relevance in as much as in the

present case before the decree of divorce could have been granted the application under the DV Act was filed and on the date of filing of application under the provisions of DV Act the parties were in a domestic relationship.

60. Mr. Deshmukh would attempt to distinguish the decision in the case of ***V D Bhanot (supra)*** as in that case the parties were living together till the year 2005 when the DV Act came into force in the year 2006 and the DV application was filed in November 2006. Similarly, Mr. Deshmukh would distinguish the decision in the case of ***Saraswathy (supra)*** that in the facts of that case the petition for restitution of conjugal rights was filed by wife in the year 2001 signifying her intention to continue to be in domestic relationship with her husband and as there was a breach of maintenance and residence order, the Apex Court has held that there was continuation of domestic violence. He would further contend that the Apex Court did not decide the question whether the incident of domestic violence prior to the coming into force of DV Act could be considered. I am unable to read the decisions of Apex Court as desired by Mr. Deshmukh. In the case of ***Saraswathy (supra)*** the primary question which was for consideration before the High Court was whether the acts committed prior to the coming into force of the DV Act could

form the basis of an action. The High Court held that what constituted domestic violence was not known until the passage of the Act and could not have formed the basis of complaint of commission of domestic violence. The Apex Court held in paragraph 13 that there was continued domestic violence and it is therefore not necessary for the Courts below to decide the issue whether the acts of domestic violence committed prior to the enactment of DV Act falls within the definition of domestic violence. Pertinently the Apex Court noted the decision of ***V.D. Bhanot (supra)*** and held in paragraph 15 that the High Court made an apparent error in holding that the conduct of the parties prior to the coming into force of PWD Act, 2005 cannot be taken into consideration while passing an order.

61. The Apex Court in the case of ***Krishna Bhattacharjee (supra)*** has held that upon decree of divorce being passed, there is severance of status. The fact remains that in the present case at the time of filing of the application by the Respondent No 1 the decree of divorce had not been granted. If the contention of Mr. Deshmukh is accepted that the domestic relationship should continue till the passing of the judgment, there is possibility of unscrupulous litigant delaying the DV proceedings and in the interregnum seeking decree of divorce frustrating the DV proceedings. Interpreting the definition as desired

by Mr. Deshmukh would defeat the legislative intent.

62. The admitted factual position is that on 7th July 2017 the DV application was filed by the respondent no.1 on which date the marriage was subsisting although the application for divorce was filed. The decree of divorce was granted subsequently on 3rd January 2018. The submission that the trigger for DV proceedings was the receipt of summons by respondent no.1 on 15th May 2017 from the USA Court is of no consequence as on the date when the application under DV Act is filed there was a subsisting domestic relationship. It is not necessary that the domestic relationship should continue till the judgment in DV proceedings is delivered. As such it is not necessary to go into the issue whether the decree of divorce was validly granted by the USA Court and would have any relevance in view of section 41 of the Indian Evidence Act.

63. Coming to the submission that the DV Act does not have an extra territorial jurisdiction / operation in view of section 1(2) of DV Act, the provisions of section 1(2) of DV Act extends the applicability of DV Act to the whole of India except the State of Jammu and Kashmir. Section 1(2) of DV Act has to be read along with section 27 of DV Act which gives jurisdiction to the magistrate to grant orders

under the DV Act and to try the offences under the DV Act within his local limits when :

> *[A] the person aggrieved permanently or temporarily resides or carries on business or is employed; or*
>
> *[B] Respondent resides or carries on business or is employed; or*
>
> *[C] the cause of action has arisen.*

64. The said provisions were interpreted by the Learned Single Judge of this Court in ***Sumeet Ninave (supra)***. An identical contention was raised as regards the applicability of DV Act in view of section 1(2) and section 27 of the DV Act considering that the acts of domestic violence were alleged on foreign soil, in that case in Germany. In that case, the aggrieved person had thereafter left Germany and was residing at Nagpur where the application under Section 12 of DV Act was filed. The Learned Single Judge held in paragraph 9 as under :

> *"In order to appreciate the rival submissions, I have gone through the record and proceedings. I have also gone through the judgments relied upon by both the parties. It is true that as per Section 1 of the D.V. Act, the D.V. Act extends to the whole of India except the State of Jammu and Kashmir. It does not extend beyond the limits of India. The question therefore, is whether for the domestic violence caused to the aggrieved person on the foreign soil can be taken cognizance of by the Court of Magistrate in India at any of the places provided in clause (a) to (c) of Section 27. It is to be noted that subsection 1 and Section 27 of the D.V. Act will have to be harmoniously construed. The DV Act is a social beneficial legislation. The*

> *object and intention of the legislature behind this enactment is writ large from the statement of the object and reasons of the Act. Section 27 of the Act provides for the jurisdiction of a Court of Magistrate of First Class or Metropolitan Magistrate to entertain the application under this Act. The provisions of Section 27(1)(a) and (b) are applicable irrespective of the place of cause of action. It is to be noted that clause (a) and (b) of Section 27(1) of the D. V. Act has, therefore, no direct nexus or co-relation with the place where the domestic violence was actually caused. In my view, these two clauses namely (a) and (b) of sub section (1) of Section 27 have to be harmoniously construed with sub section 1 of Section 27 of the Act. If it is so done then it would show that the law makers were mindful of such a situation and therefore, Section 27 have been worded in this form. It therefore goes without saying that though the Domestic Violence Act extend to the whole of India as provided under Section 1 of the D.V. Act, the domestic violence caused on the foreign soil could also be taken cognizance by invoking Section 27 (1)(a) and (b).”*

65. After interpreting section 1(2) read with section 27 of the DV Act, the Learned Single Judge considered the decisions in the case of ***Rupali Devi (supra), Mohammad Farooqi (supra)*** and ***Hima Chugh (supra)*** in support of the view taken by the Learned Single Judge. The judgment in the case of ***Sumeet Ninave (supra)*** is sought to be distinguished by Mr. Deshmukh by contending that the decision of ***Sumeet Ninave (supra)*** had based its conclusion on above referred 3 decisions which in fact have no application as in the case of ***Rupali Devi (supra)*** the provisions of section 498A of the IPC were considered; in the case of ***Mohammad Farooqi (supra)***, it was expressly stated to be *prima facie* in nature and confined to the

adjudication of said writ petition; and the decision in ***Hima Chugh (supra)*** was *per incuriam* since it did not notice the provisions of section 1(2) of DV Act. The reading of the decision in ***Sumeet Ninave (supra)*** would indicate that the Learned Single Judge has interpreted the provisions of DV Act and held that though the DV Act extends to the whole of India the domestic violence caused on foreign soil could also be taken into consideration by invoking section 27(a) and (b) of the DV Act. Evidently, the Learned Single Judge has not merely followed the above referred 3 decisions without any findings of its own, but, after interpreting the provisions of DV Act has noted the above referred 3 decisions. The Learned Single Judge has drawn an analogy from the observations in those 3 decisions and held that the consequence of trauma, suffering and distress carried by the complainant to her parental home would be sufficient to reject the submissions advanced by relying upon section 1 of the DV Act. The Learned Single Judge had further answered the issue of jurisdiction in favour of the aggrieved person. In my view, the interpretation which has been placed by the Learned Single Judge is in tune with the advancement of the stated object of DV Act. Considering that the decision of this court in ***Sumeet Ninave (supra)*** is of coordinate bench of equal strength, I am respectfully bound by the said decision. There are no submissions advanced so as to impress this court to take a

different view from what has been held by the Learned Single Judge in ***Sumeet Ninave (supra)***. Judicial discipline demands that law laid down by the bench of equal strength should be followed by the latter bench. As such the submission that the DV Act does not have the extraterritorial jurisdiction as some of the incidents of domestic violence had taken place on foreign soil cannot be countenanced.

66. In support of the submission that there was subsisting domestic relationship, judgment of the Apex Court in the case of ***Juveria Abdul Majid Patni (supra)*** relied upon by the trial Court and the appellate Court was sought to be distinguished by Mr. Deshmukh. In the case of ***Juveria Abdul Majid Patni (supra)*** the Apex Court has held that the act of domestic violence once committed, subsequent decree of divorce will not absolve the liability of husband from the offence committed or to deny the benefit to which the aggrieved person is entitled under the DV Act. In the facts of that case the aggrieved person had alleged domestic violence between the year 2006 and 2007 and had lodged FIR under section 498A of the Indian Penal Code. The wife claimed that she had obtained ex-parte Khula under the Muslim Personal Law on 9th May 2008 which was challenged by the husband before the family Court and in response the husband had also filed a petition for restitution of conjugal rights. On 29th

September 2009, the DV application was filed by the wife. In that case the Apex Court had gone into the validity of Khula and had held that in the absence of pleadings, evidence and findings, it cannot be said that the divorce had taken place. Proceeding further, the Apex Court has presumed that even if the divorce was obtained on 9th May 2008, the issue was considered whether the erstwhile wife can claim one or the other reliefs under the DV Act if the domestic violence had taken place when the wife lived together in shared household with the husband through the relationship in the nature of marriage. Mr. Deshmukh would contend that observations from paragraph 18 of said judgment cannot be considered as *ratio decidendi* by applying the inversion test which doctrine provides that if the text is removed from the judgment the discussion would not make any difference to the ratio in decision in ***Juveria Abdul Majid Patni (supra)***. He would therefore submit that paragraphs are merely *obiter* which are not binding on this Court.

67. In that case the aggrieved person claimed to have obtained ex parte "*khula*" from the Mufti under the Muslim personal law on 9th May, 2008 and had thereafter filed the petition under Section 12 of DV Act on 29th September, 2009. Considering the facts of the present case, the issue as to whether after the grant of decree of divorce the

erstwhile wife can claim relief does not arise for consideration for the simple reason that the application under DV Act was filed prior to the decree of divorce being granted. These facts would make all the difference as on the date of filing of application under DV Act there was subsisting domestic relationship and no authority has been shown to support the proposition that the domestic relationship should continue till the adjudication of proceedings under the DV Act. Whether the inversion test is to be applied to find out the ratio in the case of ***Juveria Abdul Majid Patni (supra)*** is irrelevant as the factual scenario in the present case is different from what has been considered by the Apex Court in ***Juveria Abdul Majid Patni (supra)***. Even *dehors* the ratio laid down in ***Juveria Abdul Majid Patni (supra),*** in the present case there was a subsisting relationship at the time of filing of application under the DV Act and the subsequent decree of divorce would not take away the right of aggrieved person to claim reliefs under the DV Act.

68. Having answered the legal submissions raised on behalf of the parties, merits of the matter will have to be looked into to decide the correctness of findings rendered by the courts below. In the application filed under DV Act in July 2017 the following reliefs are sought :

"a) That this Hon'ble Court be pleased to direct Respondent to restore possession of aggrieved person and allow her free ingress and egress in their matrimonial home at 503 Meru Heights, 208 Telang road, Matunga, Mumbai 400019, and aggrieved person be permitted to stay in the said flat till the time suitable alternate accommodation is provided to her;

b) That this Hon'ble Court in the alternative to prayer clause (a) be pleased to direct Respondent to provide separate equivalent accommodation equivalent to their matrimonial home in Matunga, Mumbai with all basic amenities;

c) That this Hon'ble Court be pleased to restrain the Respondent from creating third party rights or disposing of or dealing in any manner with respect to their matrimonial home i.e. flat at Meru Heights, 268, Telang road, Matunga Mumbai 400019 during the pendency of this Application;

d) That this Hon'ble Court be pleased to direct the Respondent to pay the aggrieved person Rs. 2,50,000/- per month towards the monthly maintenance to enable her to live in the status and standard commensurate with the respondent;

e) Ad-interim and interim orders in terms of prayer clause (a) (b) and (c) above be granted;

f) That this Hon'ble Court be please to direct the Respondent to pay to the aggrieved person Rs.5,00,00,000/- (Rupees five cores only) towards compensation and for reimbursement of her expenses during their separation;

g) That this Hon'ble Court be pleased to direct the Respondents to pay to the aggrieved person Rs.1,50,000/- as an by way of litigation and other miscellaneous expenses;

h) Ad-interim and interim orders in terms of prayer clause (f) & (g) be granted to the aggrieved person;

i) Cost of this application be provided for;

j) Any other further reliefs as this Hon'ble Court deems fit and proper."

69. Subsequently, by way of an amendment protection order was

sought as also the relief of return of *stridhan*. It was contended by learned counsel for the Revision Applicant that there is no prayer for any protection order under Section 18 of DV Act which is *sine qua non* for filing any application under DV Act. The submission overlooks the varied reliefs which can be granted under Section 18 of DV Act. Protection orders can be sought against committing any act of domestic violence, which is defined under Section 3 of DV Act to include a case of economic abuse i.e. alienation of assets in which the aggrieved person has an interest or is entitled to use by virtue of domestic relationship. The shared household at Meru Heights is owned jointly by the Revision Applicant and the Respondent No 1. Section 18(e) provides for issuance of protection orders prohibiting the Respondent from alienating any assets and the application in fact seeks necessary protection orders under Section 18 of DV Act.

ACTS OF DOMESTIC VIOLENCE:

70. The submission advanced is that the Respondent No 1 has not proved the acts of domestic violence either in USA or in India. As discussed above, the scope of interference in revision application is extremely narrow and in revision this Court is required to consider the record only for satisfying itself about the legality and propriety of the findings and it is not permissible to substitute its own conclusions. The

evidence on record is therefore considered only for examining the legality and propriety of the findings.

71. The pleading allege the domestic violence in USA for the period from 1994 to 2006 and from 2006 to 2008 in India. The Applicant has deposed in detail about the physical assault as well as the verbal and emotional abuse caused by casting aspersions on her character during their stay in USA which is corroborated by her mother, brother and Uncle. Learned Counsel for the Applicant has only pointed out the admission in the cross examination of the Applicant there are no medical records or police report to show the incidents of domestic violence. The evidence of the Respondent No.1 has not been shaken in the cross-examination. Apart from the oral evidence adduced by the Respondent No 1, the vital piece of evidence is the admitted position of passing of the conditional dismissal order by State of Texas as regards incident of assault in the year 1999 in USA. The documents which are relied upon by the Applicant himself are sufficient to establish the case of physical assault of such gravity that the neighbours were prompted to call the police officials and get the Applicant arrested. Apart from the verbal abuse suffered by the Respondent No 1, this one incident is sufficient to establish the case of physical assault.

72. Now, coming to the acts of domestic violence committed in India, respondent no.1 has deposed that the verbal abuse as to her character assassination by the applicant by alleging illicit relationship with other men which even included the vegetable vendors continued even in India. She has further deposed about the incident which has taken place in August-September 2007 where the applicant abused the respondent no.1 of having illicit relationship with her brother's friend. She has also deposed about the emotional abuse she had faced by reason of not being able to conceive as also the incident which had taken place In May 2008 where the applicant physically assaulted her and tried to suffocate her with the pillow. Although as regards the incident which had taken place in May 2008, respondent no.1 had not filed any police complaint, there is evidence of the mother of respondent no.1 who had come to fetch her after the incident and saw blood on the bedsheet and the state of respondent no.1. Considering the evidence, trial Court and appellate Court have rightly held that respondent no.1 was subject to acts of domestic violence at the hands of the applicant. Respondent no.1 had deposed that during this period, a psychiatrist was consulted who had diagnosed the applicant as suffering from delusional disorder. This aspect is sought to be attacked by Mr. Deshmukh by contending that there is no material produced on record and neither the concerned

psychiatrist has been examined as a witness. Respondent no.1 who appears in person has pointed out the affidavit of evidence tendered by the applicant which has been discarded in which it has been admitted by the applicant that he had visited the psychiatrist and contrary to the established psychiatric procedure, the said doctor had pronounced the incorrect diagnosis based on a single visit. As such there is an admission on the part of applicant about the visit to psychiatrist as well as his diagnosis by the psychiatrist. As held by this Court in ***Banganga CHS Ltd (supra)*** even if the evidence is discarded, the admissions made in the Affidavit can be used.

73. In the cross examination all that is sought to be brought on record is that there are no police complaints and no medical record. In cases of domestic violence, it is not necessary that the acts complained of are required to be substantiated by documentary evidence in form of medical records or police reports. It is well known that as the marriage is subsisting, more often than not there is no police complaint filed and the physical abuse may not be to such an extent so as to require hospitalization, in which case the medical record would substantiate the abuse. It needs to be noted that although the provisions of Cr.P.C govern the proceedings, the remedies are civl remedies and the usual standard of proof beyond

reasonable doubt applicable to criminal offence is not required to be applied. Considering that even verbal or emotional abuse constitutes domestic violence, the deposition of respondent no.1 establishes that apart from the physical abuse there was emotional and verbal abuse at the hands of the Applicant. It is well known that abuse in a matrimonial relationship usually occurs within four walls of the house and is confined to the two parties. It is very rarely that such incidents occur in presence of eye witnesses and the evidence has to be accordingly assessed. I do not find any infirmity in the findings of the Courts which have rightly appreciated the evidence to come to a finding of domestic violence.

74. Reliance has rightly been placed by the Respondent No 1 in decision of this Court in ***Aruna Omprakash Shukla v. Omprakash Devanand Shukla (2021 SCC Online Bom 1292)***, where it was held that in cases of domestic violence, it is often found that the wife does not immediately rush to the police when inflicted with physical, mental, physiological and economic abuse and even if such person suffers injuries they would not necessarily keep medical records of the same.

MAINTENANCE:

75. The contention is that respondent no.1 has adequate funds of her own and is not entitled to maintenance. The admitted position is that the evidence of applicant was discarded and only the material produced by the Respondent No 1 was before the Courts. The trial Court has considered the monthly income of respondent no.1 which is about ₹1,31,861/- and has considered the income tax returns of applicant which disclosed that in the year 2008-2009 the annual income of applicant was ₹85,00,000/-. The trial Court considered the Applicants investment statement of AA Credit Union which shows that the applicant has a considerable investments in shares. After a comparative analysis, the maintenance of Rs.1,50,000/- per month has been granted to respondent no.1. The only submission is that respondent no.1 is having sufficient earnings of her own as demonstrated from the document at exhibit 61 and therefore she is not entitled to maintenance. According to Mr. Deshmukh as per the statement of savings of respondent no.1 as on 8th November, 2017 the Respondent's savings are US$ 143,630/ equivalent to ₹1.20 crore, on which interest at the rate of 14.8% is being earned by respondent no.1. The submission overlooks the position that even if the Respondent No 1 was earning, she is entitled to the same standard of living as that of the Applicant. In her evidence, the Respondent No 1 has deposed about the estimated salary of the Applicant being at US$

3,00,000/ annually. Learned Counsel for the Applicant has not pointed out from the cross examination any challenge to the said deposition on income.

76. Considering that in the year 2008-2009, the applicant was having an annual income of ₹85,00,000/-, which over a period of time must have increased in the usual course and in absence of any evidence brought on record by the applicant to show his present income, the monthly income of ₹1,31,861/- earned by respondent no.1 and even the retirement savings investment at Exhibit 61, the sum of ₹1,50,000/- per month as maintenance cannot be stated to be excessive. In order to show that the same is excessive it is necessary for the applicant to demonstrate the comparative incomes and assets on record. As there was no contemporaneous document of income of the Applicant on record, an element of guesswork was incorporated by the Trial Court by considering that the income of applicant in the year 2008-2009 was about ₹85,00,000 per annum and considering that by the passage of time it must have definitely increased. The Respondent No 1 has rightly pointed the assets of the Applicant set out in the divorce decree which is sufficient indicator of the income of the Applicant. The thrust of the submission of learned counsel for the Applicant is to show that the Respondent No 1 is having source of

income. It is settled that the same does not *ipso facto* dis-entitle the Respondent No 1 from grant of maintenance. There is nothing to demonstrate perversity in the findings of the Trial Court and Appellate Court on grant of monthly maintenance of Rs 1.50 lakhs.

COMPENSATION:

77. Compensation of Rupees Three Crores (Rs.3,00,00,000/-) has been granted by the trial Court which has been upheld by the appellate Court. The provisions of section 22 of the DV Act govern the grant of compensation which reads thus:

> *"22. Compensation orders.—In addition to other reliefs as may be granted under this Act, the Magistrate may on an application being made by the aggrieved person, pass an order directing the respondent to pay compensation and damages for the injuries, including mental torture and emotional distress, caused by the acts of domestic violence committed by that respondent."*

The grant of compensation is in addition to the other reliefs which may be granted. Compensation is to be granted for the injuries including mental torture and emotional distress caused by the acts of Respondent. The amount is granted as a recompense not only for the physical injuries but also for mental torture and emotional distress. So how does one quantify the compensation to be granted for mental

torture and emotional distress. For obvious reasons there cannot be a strait jacket formula applicable to all and the quantum will differ according to the facts of each case. In my view, while determining the quantum of compensation, one of the factors which can be considered is the impact of the acts of domestic violence on the aggrieved person. Although the abuse will necessarily result in mental torture and emotional distress for the aggrieved person, the gravity will differ from person to person. In the present case admittedly both the parties are well educated and highly placed in their workplace and in social life. That being the social standing, the acts of domestic violence would be greater felt by the Respondent No 1 as it would affect her self worth. This is not to be interpreted to mean that the aggrieved person from other walks of life will not be impacted by the domestic violence suffered by them. The cumulative effect in facts of each case will also have to be taken into consideration. Mr. Deshmukh is not right in contending that only finding of domestic violence is change of locks. The finding is that the Respondent No 1 has been subjected to physical, economic, mental and emotional abuse. That she has to reside with her mother for 9 years. That the Applicant left the Respondent No 1 and went to USA without making any provision for her. In the present case, there is a marriage of the year 1994. The trial court has rightly held that the Respondent No 1 can be said to be

left without any future prospects as regards her personal life having suffered domestic violence since the year 1994 till 2008.

78. The Trial Court has granted the compensation considering the entire facts and circumstances and has decided the quantum by considering the status of the parties and income. Learned *Amicus Curiae* has interestingly justified the quantum by pointing out that since 2008, the Respondent No 1 is without any maintenance and even if the sum of Rs 1,50,000/ per month is considered, the same would amount to Rs 2,70,00,000/ which is just, fair and reasonable. Considering the facts of the present case, the justification of the quantum according to the formula devised by learned *Amicus Curiae* cannot be faulted.

79. The Respondent No 1 has rightly placed reliance on decision of Madras High Court in ***J.Karthikeyan vs R.Preethi*** (supra), where the Madras High Court has considered that the husband therein was working as software engineer in Singapore in the year 2008 itself and has not produced any proof to show his monthly income and thus the Court cannot interfered with the award passed by the Courts below. I find myself in agreement with the observations of the Madras High Court.

80. The submission of Mr. Deshmukh is that in absence of any prayer under section 18 of the DV Act, the award of compensation is unjustified. I have already discussed the said aspect hereinbefore. It is not necessary that the relief in respect of each and every clause of section 18 clauses (a) to (f) of the DV Act should be sought. As far as the quantum of compensation is concerned the provisions of DV Act do not lay down any strait jacket formula for computing the same and the same has to be ascertained by taking into consideration the entire facts and circumstances of case. The trial Court on an assessment of entire facts and circumstances of the case has held that respondent no.1 was entitled to compensation and has decided it on the basis of income of applicant which in the year 2008-2009 was about ₹85,00,000/-.

81. The quantum of compensation has been assailed on the ground that only finding on the domestic violence is the change of locks. The submission emanates from misreading of the judgments of trial Court as well as appellate Court. The trial Court has considered in detail the acts of domestic violence committed by the applicant and the evidence which has come on record and on assessment of the entire facts and circumstances of the case held that the applicant has

committed the acts of domestic violence continuously from the year 1994 to 2017 and has subjected respondent no.1 to physical, economic, mental and emotional abuse. It was further held that the respondent no.1 has to stay with her mother for 9 years and there is no provision for her maintenance made by the applicant. As such it cannot be said that finding on the domestic violence is based only on the allegation of the change of locks. The acts of domestic violence have been considered cumulatively to arrive at the quantum of compensation. The finding is clearly supported by the evidence on record and as such in exercise of revisional jurisdiction , I am not inclined to interfere with the finding.

RETURN OF STREEDHAN:

82. The submission is that the award of *stridhan* is only on the basis of a solitary statement in the cross examination of mother of applicant that she identifies the ornaments gifted to respondent no.1 during her marriage. This is sought to be nullified by pointing out the deposition of mother of applicant that she is not aware as to the case in which she is giving evidence and she is not aware as to on whose instructions her affidavit was prepared and neither is she aware of the fact where the jewellery is kept. The applicant had himself examined his mother in support of his case. It is now too late in the day to

disown the admissions given by his mother in her evidence. The applicant's mother had specifically admitted that jewellery was gifted to respondent no.1 during her wedding. The other witnesses were examined on behalf of applicant to salvage this situation by deposing that the translation was not correct from Kutchi to English and in fact what the mother meant to say is that jewellery was loaned to respondent no.1. Admittedly, after the evidence was led no application has been made to correct the translation of the deposition of mother of applicant from Kutchi to English and the evidence now forms part of judicial record which has been transcribed as having identified the jewellery in the photographs as well as identifies the same as gifted to respondent no.1.

83. What is next sought to be contended is that stridhan is with the mother in law and the mother in law not being made party, no direction could be given to the applicant to return the the stridhan. The trial Court has considered the evidence of mother in law where she has given an admission regarding the possession of jewellery and the same being kept in bank locker at Mumbai. Although the trial Court has held that the jewellery is in possession of mother of applicant, it needs to be noted that the same is kept in bank locker in Mumbai and there is no material to show as to in whose name the

bank locker is standing. On one hand, one of the witnesses, that is, the uncle of applicant has stated that jewellery in his possession, on the other hand the other witnesses are saying that jewellery is in possession of the mother of applicant. In the cross examination, the Applicant's mother has deposed that when she was staying in Breach Candy, her bank locker was in Breach Candy and she does not remember the name of bank in Matunga where they have locker. She has further identified the jewellery as being gifted to respondent no.1 during her marriage and also admitted that the ornaments are kept in Mumbai in bank locker. The evidence of applicant's mother assumes importance as the evidence does not indicate that jewellery is in her possession but all that she has stated that jewellery is kept in Mumbai in a bank locker. There is no material produced on record to show the jewellery is kept in which locker in which bank and in whose possession. In the absence of any such material being on record, the trial Court has rightly directed respondent no.1 to return the jewellery to respondent no.1. It is nobody's case that there are any strained relationship between the applicant and his family members and as such the jewellery is not in his possession but is in possession of his family members. All that the evidence shows that the jewellery is in Mumbai in bank locker and as such the direction has been rightly given to the applicant to return the jewellery.

84. According to Mr. Deshmukh the dispute is entirely a civil dispute for which an appropriate step has been taken by respondent no.1 by filing a partition suit. It needs to be noted that as per the provisions of section 36 of DV Act, the provisions of DV Act are in addition to and not in derogation of any other law for the time being in force. The fact that recourse has been taken by respondent no.1 to other proceedings would not deviate from the fact that on the basis of evidence respondent no.1 has established a case of domestic violence. For the purpose of grant of other reliefs domestic violence is *sine qua non*. Once the same has been established by respondent no.1, other reliefs will follow. In the present case reliefs of maintenance, rent, compensation and return of stridhan has been granted.

85. As regards the submission that there is no specific finding as to which are the acts of domestic violence continuously from 1994 to 2017, the evidence on record clearly demonstrate the acts of domestic violence which are committed in India as well as in USA. The domestic violence also includes an aspect of economic abuse, which also takes within its fold the deprivation of stridhan of aggrieved person. Considering that it has come on record that the stridhan of respondent no.1 is in bank locker as well as respondent no.1 has been

deprived of the use of shared household and no provision was made for the maintenance of respondent no.1 till the adjudication of application, the acts of domestic violence continued from 1994 to 2017. The trial Court has come to a finding based on the discussion that there were continuous acts of domestic violence from 1994 to 2017, which cannot be faulted with.

86. Having regard to the discussion above, I don't find any reason in exercise of revisional jurisdiction of this court, to interfere with the impugned judgment and order. Revision Application stands dismissed. Rule is discharged.

87. I must record my appreciation for the invaluable assistance rendered by *Learned Amicus Curiae*- Advocate Ashutosh Kulkarni, who has taken immense efforts to assist this Court.

[Sharmila U. Deshmukh, J.]

88. At this stage, request is made for continuation of interim relief. Considering that the stay results in staying the order of grant of maintenance and compensation, I am inclined to extend the interim relief only for a period of two weeks.

[Sharmila U. Deshmukh, J.]