



RAJASTHAN HIGH COURT
**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**
सत्यमेव जयते

S.B. Criminal Revision Petition No. 599/2025

-----Petitioner

Versus

1.

2.

3.

4.

5.

6.

7. State Of Rajasthan, Through Pp

-----Respondents

For Petitioner(s) : Mr. Narendra Thanvi

Mr. Mahendra Thanvi

For Respondent(s) : Mr. SriRam Choudhary, PP

Ms. Sarika Bishnoi

HON'BLE MR. JUSTICE FARJAND ALI

Order

REPORTABLE

DATE OF CONCLUSION OF ARGUMENTS : 17/04/2026

DATE ON WHICH ORDER IS RESERVED : 17/04/2026



FULL ORDER OR OPERATIVE PART : **Full Order**
DATE OF PRONOUNCEMENT : **12/05/2026**

BY THE COURT:-

GRIEVANCE

1. The instant criminal revision petition under Section 438 read with Section 442 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter to be referred as "BNSS") has been instituted by the petitioner assailing the order dated 05.05.2025 passed by the learned Additional District Judge No.2, Bikaner in Criminal Appeal No.10/2025, whereby the appeal preferred by the petitioner against the order dated 27.02.2025 passed by the learned Additional Chief Judicial Magistrate No.4, Bikaner in proceedings arising out of an application under Section 12 of the Protection of Women from Domestic Violence Act, 2005 (hereinafter to be referred as "DV Act") filed by respondent No.1, came to be partly allowed.

FACTS OF THE CASE

2. Briefly stated the facts of the case are that the respondent No.1-wife filed an application under Section 12 of the DV Act before the learned ACJM No.4, Bikaner alleging cruelty, harassment and dowry demand against the petitioner-husband and his family members and sought protection, residence, maintenance and compensation. The petitioner and other respondents denied the allegations and contended that the respondent-wife had been residing separately since 16.08.2012 and had initiated false proceedings as a counterblast to the divorce petition filed by the petitioner. After recording evidence,





the learned trial court vide order dated 27.02.2025 partly allowed the application and awarded maintenance of Rs.20,000/- per month, Rs.5,000/- towards accommodation and compensation of Rs. 2 lacs to the respondent-wife. The appeal preferred by the petitioner under Section 29 of the DV Act was partly allowed by the learned appellate court vide order dated 05.05.2025 whereby the maintenance amount was modified to Rs.10,000/- per month starting from 18.11.2014 i.e., the date of presentation of the application before the learned trial Court till 16.08.2018 being the date of the petitioner's appointment in government service, while the remaining directions of the learned trial court were affirmed. Aggrieved by these orders, the present revision petition has been preferred before this Court.

SUBMISSIONS BY THE COUNSELS

3. Learned counsel for the petitioner submitted that the impugned orders passed by the learned courts below suffer from patent illegality, perversity and material irregularity inasmuch as the allegations of domestic violence and cruelty levelled by respondent No.1 were not substantiated by any cogent evidence. It was further contended that the respondent-wife had been residing separately of her own volition and had instituted false proceedings as a counterblast to the divorce petition preferred by the petitioner. Learned counsel further urged that prior to the year 2018, the petitioner had no stable source of income and, therefore, the direction to pay maintenance from the date of filing of the application is wholly arbitrary and excessive. It was also





argued that the learned courts below failed to appreciate that certain respondents were residing separately and no specific allegations or evidence were available against them. On these premises, it was prayed that the impugned orders deserve to be quashed and set aside.

4. Learned counsel appearing on behalf of the respondent and learned Public Prosecutor opposed the submissions made by the learned counsel for the petitioner.

OBSERVATION

5. Heard learned counsel for the petitioner, learned public prosecutor as well as learned counsel for the respondents. Perused the material available on record, more particularly the orders impugned.

Maintenance: Preventing Starvation, Not Penalising Husband

6. So far as the issue relating to maintenance is concerned, this Court is of the firm opinion that the learned courts below have completely lost sight of the fundamental object and philosophy underlying maintenance jurisprudence. Maintenance is neither punitive nor retributive in character. It is not intended to punish the husband for matrimonial discord nor is it designed to create a windfall or a mechanism for accumulation of wealth. The true rationale behind grant of maintenance is to ensure that the spouse, who lacks sufficient independent means, is not reduced to destitution, starvation, vagrancy or a life of helplessness. The object is to provide immediate financial succour and sustenance so





that the claimant may maintain herself with basic dignity and survive the hardships arising out of matrimonial separation. The concept of maintenance, therefore, has to be understood in its correct perspective. It is essentially a provision for subsistence and survival. The legislative intent behind such provisions is to ensure that a spouse is not left abandoned without means to secure food, shelter and the basic necessities of life. The law never contemplated that maintenance proceedings would assume the nature of a money recovery suit or culminate into a colossal retrospective financial burden incapable of being discharged by a salaried employee. The courts are required to strike a delicate balance between the needs of the claimant and the actual paying capacity of the person directed to pay maintenance.

Legality of Order dated 27.02.2025 passed by learned ACJM

No.4, Bikaner

7. This Court has bestowed its thoughtful consideration to the order dated 27.02.2025 passed by the learned ACJM No.4, Bikaner as well as the judgment dated 05.05.2025 rendered by the learned appellate court and, upon a careful scrutiny of the material available on record, this Court is constrained to observe that both the courts below have failed to examine the controversy in its correct legal perspective.

7.1 The learned trial court, while partly allowing the application preferred by respondent No.1 under Section 12 of the DV Act, proceeded not only to award maintenance and residential benefits but also directed payment of a sum of Rs.2,00,000/- towards





alleged mental and physical harassment. The learned appellate court, though partly modifying the quantum of maintenance for a limited period, substantially affirmed the findings recorded by the learned trial court. At the very outset, this Court finds that the direction issued by the learned trial court for payment of compensation amounting to Rs.2,00,000/- towards alleged mental and physical harassment cannot be sustained in the eyes of law. The allegations relating to cruelty, harassment and other matrimonial offences are already subject matter of criminal prosecution initiated separately by respondent No.1 and the said proceedings are admittedly pending consideration before the competent criminal court. Once the criminal law has already been set into motion and the allegations are yet to attain judicial finality upon appreciation of evidence in accordance with law, the courts exercising jurisdiction under the DV Act ought to have exercised due restraint in recording findings touching upon the culpability of the petitioner with regard to the alleged acts of cruelty and harassment. Any categorical observation or grant of compensation founded upon disputed allegations, which are yet to be adjudicated in criminal proceedings, would virtually amount to pre-judging the controversy and may seriously prejudice the rights of either side in the pending prosecution.

7.2 The jurisdiction under the DV Act is essentially remedial and protective in nature. The court is required to examine whether the aggrieved person requires immediate civil assistance by way of residence, maintenance, protection or monetary relief so as to





enable her to live with dignity. Such jurisdiction cannot be stretched to convert the proceedings into a substitute for criminal adjudication, particularly when the allegations of cruelty are seriously disputed and are already pending trial before a competent criminal court. Therefore, in the considered view of this Court, except to the limited extent of acknowledging the undisputed factual position that respondent No.1 is the legally wedded wife of the petitioner, that she is residing separately and that there exists reasonable and plausible cause for her separate residence and that she does not possess sufficient independent means to maintain herself, no further finding touching upon the alleged cruelty ought to have been returned by the learned courts below.

Legality of order dated 05.05.2025 passed by the learned ADJ No.2, Bikaner

8. The Appellate Court modified the order of the ACJM No.4, Bikaner and the maintenance amount was modified to Rs.10,000/- per month starting from 18.11.2014 i.e., the date of presentation of the application before the learned trial Court till 16.08.2018 being the date of the petitioner's appointment in government service, while the remaining directions of the learned trial court were affirmed. The orders by both the courts below attained finality in the year 2025.

8.1 This Court is rather disturbed by the peculiar facts emerging in the present case. The maintenance proceedings, instituted as far back as on 18.11.2014, remained pending adjudication before





the learned trial court for almost 10 to 11 years and ultimately culminated into a direction fastening huge arrears of maintenance upon the petitioner from the very date of filing of the application.

The petitioner, who is admittedly a salaried employee and who entered government service only on 16.08.2018, has now been burdened with retrospective liability running into several lakhs of rupees. Such an approach, in the considered opinion of this Court, defeats the very object sought to be achieved by maintenance law. A monthly maintenance amount may be manageable for a salaried person if paid periodically from his subsisting earnings. However, directing payment of arrears accumulated over more than a decade in one stroke creates an unbearable and oppressive financial liability, particularly when the delay in adjudication cannot be attributed solely to the petitioner. For instance, directing payment of a lump sum amount of Rs. 10 lakhs along with a monthly payment of Rs. 20,000/- may prove excessively onerous and, at times, practically impossible for a salaried individual or a person having limited means. On the other hand, the same person may reasonably be in a position to regularly pay an amount of Rs.20,000/- per month.

OPINION

9. The courts cannot remain oblivious to the practical realities of life. An ordinary salaried employee cannot reasonably be expected to suddenly discharge arrears accumulated for 10 or 11 years at the rate of Rs.20,000/- per month. Such directions, instead of securing justice, may push the person liable to pay into





financial ruin and perpetual indebtedness. This Court is further constrained to observe that if proceedings of maintenance remain pending for a decade and thereafter retrospective maintenance is awarded from the date of application, the very essence of "maintenance" stands diluted. The purpose of maintenance is to provide immediate support to avoid starvation and destitution. If the claimant has managed to sustain herself, survive and pursue litigation for all these years, then grant of huge retrospective arrears after lapse of a decade cannot be said to advance the object of immediate sustenance. Rather, it assumes the character of a monetary decree or financial compensation, which is beyond the true scope of maintenance jurisprudence.

9.1 The delay in disposal of maintenance proceedings by the judicial system cannot become a tool for imposing crushing retrospective liabilities upon either party. Courts are expected to adopt a realistic, pragmatic and equitable approach while determining the commencement of maintenance. In the facts of the present case, this Court is of the considered view that the ends of justice would be adequately met if maintenance is directed to be paid from the date of the order instead of from the date of filing of the application. Such an approach would balance the rights of respondent No.1 to receive financial support with the financial capacity and practical limitations of the petitioner and would also preserve the true spirit and object underlying the law relating to maintenance.





10. This Court is of the considered opinion that the underlying rationale behind the aforesaid principle is to obviate the grave financial hardship which may be caused on account of imposition of huge retrospective maintenance liabilities accumulated during the prolonged pendency of maintenance proceedings. Such delayed adjudication often results in serious adverse consequences, inasmuch as the person concerned is suddenly burdened with discharge of substantial lump-sum arrears after several years, apart from the continuing obligation of monthly maintenance. The very object of maintenance jurisdiction is to provide immediate succour and to save the claimant from destitution and starvation. Maintenance proceedings, therefore, ought not to be permitted to linger indefinitely. In cases where such delay occurs, the responsibility cannot always be attributed solely to the parties and the systemic delay in adjudication also cannot be ignored. Consequently, directing payment of maintenance from the date of application, after inordinate delay in conclusion of proceedings, may in certain cases operate harshly and result in an excessively onerous financial burden, particularly upon a salaried person or a person having limited means, who is required to simultaneously clear accumulated arrears as well as continue making monthly payments.

MODIFICATIONS AND DIRECTIONS

11. In light of the discussion made hereinabove and having regard to the peculiar facts and circumstances of the present case,





the instant revision petition deserves to be disposed of with the following modifications and directions: –

(i) The order dated 27.02.2025 passed by the learned Additional Chief Judicial Magistrate No.4, Bikaner is modified to the extent that, while this Court is of the considered opinion that the quantum of maintenance awarded by the learned trial Court is just, proper and commensurate with the financial status and obligations of the petitioner, however, a slight modification in the manner of enforcement of the impugned order is found warranted in the interest of justice. Consequently, the petitioner shall pay a sum of Rs. 20,000/- per month to respondent No.1 from the date of the order passed by the learned trial Court i.e. 27.02.2025. However, the condition imposed by the learned trial Court directing payment of Rs. 2,00,000/- towards alleged mental cruelty is hereby quashed and set aside.

(ii) The order dated 05.05.2025 passed by the learned Additional District Judge No.2, Bikaner is hereby quashed and set aside, inasmuch as the direction requiring payment of maintenance from the date of application till the date of petitioner entering into government service appears to be wholly unreasonable, excessive and unsustainable in the eyes of law.

12. It is further clarified that in the event respondent-wife is receiving any amount towards maintenance pursuant to any other judicial proceeding or from any other competent forum, the same shall be duly adjusted/set-off against the amount directed to be





paid under the order of the learned trial Court as modified by this Court hereinabove.

VERDICT

13. Accordingly, with the aforesaid modifications and observations, the present revision petition stands disposed of.

14. Stay petition as well as all pending applications also stand disposed of.

15. The record of the Courts below be sent back forthwith.

(FARJAND ALI),J

248-Mamta/-

