



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

S.B. Criminal Revision Petition No. 684/2025

Divik Ostwal S/o Virendra Kumar, Aged About 44 Years, Resident Of 102, Keshav Nagar, Gali No.04, Pal Road, Opposite Ashok Udhyan, Jodhpur, At Present Residing At 302, Kratika, 14 V Road, Chambur East, Mumbai.

----Petitioner

Versus

Ambika Jain W/o Divik Ostwal, R/o 501, Sanskrati Tower, Kaylana Choraha, Soosagar Road, Jodhpur, At Present Chambur East, Mumbai

----Respondent

Connected With

S.B. Criminal Revision Petition No. 845/2025

Smt Ambika Jain W/o Divik Ostwal, Aged About 44 Years, 501, Sanskriti Apartment, Near Kaylana Circle, Soorsagar Road, Jodhpur (Raj.)

----Petitioner

Versus

1. Divik Ostwal S/o Shri Virendra Ostwal, Aged About 43 Years, 102, Keshav Nagar, Gali No 4, Pal Road, Opposite Ashok Udhyan, Jodhpur (Raj.) Presently Residing At 302, Katariya Apartment Road No. 4, Saint Anthony Road, Near Hanuman Temple, Chembur (East) Mumbai 400071
2. Virendra Kumar Ostwal S/o Late Rikhabh Chand Ji, Aged About 75 Years, 102, Keshav Nagar, Gali No 4, Pal Road, Opposite Ashok Udhyan, Jodhpur (Raj.)
3. Anjana Ostwal W/o Virendra Ostwal, Aged About 71 Years, 102, Keshav Nagar, Gali No 4, Pal Road, Opposite Ashok Udhyan, Jodhpur (Raj.)
4. Kapil Ostwal S/o Virendra Ostwal, Aged About 40 Years, 102, Keshav Nagar, Gali No 4, Pal Road, Opposite Ashok Udhyan, Jodhpur (Raj.)

----Respondents

For Petitioner(s) : Mr. Surendra Surana

For Respondent(s) : Mr. Ramit Mehta  
Mr. Tarun Dudia





## HON'BLE MR. JUSTICE FARJAND ALI

### Order

#### **Reportable:**

<b>Date of Conclusion of Arguments :</b>	<b>29/01/2026</b>
<b>Date on which Order is Reserved :</b>	<b>29/01/2026</b>
<b>Full Order or Operative Part :</b>	<b>Full Order</b>
<b>Date of Pronouncement :</b>	<b>03/02/2026</b>

#### **By the Court-**

#### **In S.B. Criminal Revision Petition No. 684/2025:-**

#### **Grievance of the Case**

1. By way of filing the instant revision petition, the petitioner-husband assails the judgment dated 06.05.2025 passed by the learned Additional Sessions Judge (Woman Atrocities Cases), Jodhpur Metropolitan, Jodhpur in Criminal Appeal No. 91/2024, whereby the appeal preferred by the petitioner-husband has been dismissed and the order dated 31.08.2024 passed by the learned Additional Chief Judicial Magistrate No. 02, Jodhpur Metropolitan in Criminal Misc. Case No. 16/2022 (CIS No. 191/2022) has been affirmed. By the said order dated 31.08.2024, the learned Magistrate allowed the application filed by the respondent-wife under Section 23 of the Protection of Women from Domestic Violence Act, 2005 and awarded maintenance of Rs. 40,000/- per month in favour of the respondent-wife from the date of application, i.e., 15.02.2022. The impugned appellate judgment,





being illegal, arbitrary and contrary to the settled principles of law, has resulted in grave miscarriage of justice and, therefore, warrants interference by this Court in exercise of its revisional jurisdiction under Sections 438 read with 442 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

**In S.B. Criminal Revision Petition No. 845/2025:-**

**Grievance of the Case**

2. By way of filing the instant revision petition, the petitioner-wife assails the impugned order dated 06.05.2025 passed by the learned Additional Sessions Judge (Women Atrocities Cases), Jodhpur Metropolitan, Jodhpur in Criminal Appeal No. 103/2024, whereby the appeal preferred by the petitioner under Section 29 of the Protection of Women from Domestic Violence Act, 2005 seeking enhancement of interim maintenance was erroneously dismissed, affirming the order dated 31.08.2024 passed by the learned Additional Chief Judicial Magistrate No. 2, Jodhpur in Criminal Case No. 16/2022, which had granted an inadequate interim maintenance of ₹40,000/- per month in favour of the wife from the date of application, despite the sufficient means, status, and earning capacity of the respondent-husband, rendering the impugned orders illegal, arbitrary, and unsustainable in law.

**Common Facts of the Case**

3. That the marriage between the petitioner-husband and the respondent-wife was solemnized on 11.05.2011 as per Hindu rites and rituals. Out of the said wedlock, one daughter was born. After





marriage, the parties initially resided together and later shifted to Mumbai. Owing to matrimonial discord, the parties started living separately in the year 2021, whereafter the respondent-wife came to reside at Jodhpur.

4. That the respondent-wife instituted proceedings under Section 12 of the Protection of Women from Domestic Violence Act, 2005, along with an application under Section 23 of the Act seeking interim maintenance, on 15.02.2022. During the pendency of the proceedings, both parties filed their respective replies and affidavits of income, assets and liabilities, as directed by the learned Trial Court.

5. That the learned Additional Chief Judicial Magistrate, after considering the pleadings and material available on record, partly allowed the application under Section 23 of the Act and granted interim maintenance of ₹40,000/- per month in favour of the respondent-wife from the date of application. Aggrieved by the said order, both parties preferred separate appeals, which came to be dismissed by the learned Appellate Court vide a common order, thereby affirming the order of interim maintenance passed by the learned Trial Court.

6. That being dissatisfied with the concurrent findings recorded by the courts below, the petitioner-husband has approached this Court assailing the grant of interim maintenance, whereas the respondent-wife has preferred the present revision petition seeking enhancement of the interim maintenance amount.





## Submissions on behalf of the Petitioner–Husband

7. Learned counsel for the petitioner–husband contends that the learned Trial Court as well as the Appellate Court have failed to appreciate the material on record in its proper perspective while awarding interim maintenance. It is submitted that the respondent–wife left the matrimonial home of her own volition and without any justifiable cause, and therefore, is not entitled to claim maintenance.

8. It is further argued that the allegations of cruelty and dowry demand are false, exaggerated and have been levelled only with an ulterior motive to harass the petitioner–husband and his family members. Learned counsel submits that the petitioner–husband is already bearing the responsibility of maintaining the minor daughter, who is residing with him, and the grant of ₹40,000/- per month as interim maintenance imposes an unreasonable financial burden upon him.

9. It is also contended that the income attributed to the petitioner–husband is highly inflated and not borne out from the affidavits and documents on record. On these grounds, it is prayed that the impugned orders granting interim maintenance be set aside or suitably reduced.

## Submissions on behalf of the Respondent–Wife

10. Per contra, learned counsel for the respondent–wife submits that the respondent–wife has been subjected to continuous physical, mental and economic cruelty on account of unlawful





dowry demands and was ultimately abandoned by the petitioner-husband without any reasonable cause. It is contended that the respondent-wife has no independent source of income and is suffering from serious medical ailments, having undergone multiple surgeries, which renders her incapable of earning her livelihood.

11. It is further submitted that the petitioner-husband is a highly qualified and financially sound person, working on a senior position and earning substantial monthly income, which has been deliberately concealed by him by suppressing material financial documents, including complete income tax returns. Learned counsel asserts that the amount of ₹40,000/- per month awarded as interim maintenance is wholly inadequate considering the standard of living of the parties, the medical expenses of the respondent-wife and the actual earning capacity of the petitioner-husband.

12. It is thus argued that the learned courts below have erred in not enhancing the interim maintenance despite the material placed on record, and therefore, the respondent-wife is entitled to enhancement of interim maintenance to a just and reasonable amount.

13. Heard learned counsels present for the parties and gone through the materials available on record.





## Observations of the Court

14. Before advertiring to the rival submissions advanced on behalf of the parties, it would be apposite to delineate the settled legal position governing the grant of interim maintenance, whether under Section 23 of the Protection of Women from Domestic Violence Act, 2005 or under Section 144 of the BNSS, 2023 (corresponding to Section 125 of the Code of Criminal Procedure).

The power to grant interim maintenance is essentially discretionary in nature, vested in the Court to be exercised pendente lite, and such discretion is neither arbitrary nor unfettered. It is a judicial discretion, required to be exercised on the basis of the pleadings of the parties, their affidavits of income, assets and liabilities, and a *prima facie* evaluation of the material placed on record at that stage. The very nature of interim maintenance presupposes that the Court is not expected to undertake a detailed roving inquiry or a meticulous adjudication on disputed questions of fact, which are otherwise within the exclusive domain of the final adjudication after evidence is led by the parties.

15. The grant of interim maintenance does not amount to a final or conclusive determination either on the entitlement of the wife to maintenance or on the quantum thereof. The discretion exercised at the interim stage is tentative, provisional and purely *ad hoc*, intended to operate only during the subsistence of the proceedings. It cannot be construed as a declaration that the wife





has conclusively established her entitlement to maintenance, nor can it be treated as a binding determination of the exact amount that she may ultimately be entitled to receive. The purpose of interim maintenance is limited and specific: it is to ensure that the aggrieved spouse is not rendered destitute or subjected to undue financial hardship during the pendency of the litigation, which, by its very nature, may take considerable time to reach its logical conclusion.

16. It is equally well settled that an order granting interim maintenance does not partake the character of a determination of arrears, nor does it crystallize any vested right in favour of either party. The amount so awarded is merely a stop-gap arrangement, operative till the final adjudication of the application under Section 12 of the Domestic Violence Act. The Court, at this stage, does not decide what the wife actually deserves, whether she ultimately deserves maintenance at all, or what should be the precise quantum of maintenance after a full-fledged inquiry. These issues fall squarely within the scope of the trial, where evidence is to be adduced, tested by cross-examination, and subjected to critical judicial scrutiny by the learned Trial Court.

17. The underlying object of interim maintenance is to prevent immediate hardship and financial deprivation to the claimant during the pendency of the proceedings. It is not intended to confer any share in the income of the husband, nor does it create any partnership or proprietary interest in his earnings.





18. Maintenance, particularly interim maintenance, is a measure of social justice, designed to ensure subsistence and dignity, and not to equalize incomes or to punish one party by imposing an onerous financial liability. The quantum fixed at the interim stage is necessarily approximate, based on a broad and *prima facie* assessment of the status of the parties, the apparent earning capacity of the husband, the needs of the wife, and other relevant circumstances, including the fact that the custody of the minor child in the present case is with the husband.

19. In the instant matter, the learned Trial Court, upon consideration of the pleadings, affidavits and material available on record, exercised its discretion to award interim maintenance of ₹40,000/- per month. The said discretion was thereafter examined by the learned Appellate Court, which found no perversity, illegality or patent infirmity warranting interference, and consequently affirmed the order of the Trial Court. It is trite law that an appellate or revisional Court ought not to substitute its own discretion merely because another view is possible or because it might have arrived at a different figure had it been exercising original jurisdiction. Interference with an order of interim maintenance is justified only where the discretion exercised by the Court below is shown to be manifestly arbitrary, capricious, perverse, or vitiated by a palpable error of law or jurisdiction.

20. The revisional jurisdiction of this Court is even more circumscribed. This Court does not sit as a Court of first appeal to





re-appreciate the material or to reassess the tentative conclusions drawn by the Courts below at the interim stage. Unless the discretion exercised suffers from a glaring legal infirmity or results in manifest injustice, the revisional Court would be loath to interfere. The Trial Court, which has the advantage of directly dealing with the parties, assessing their pleadings at close quarters, and monitoring the progress of the proceedings, is best placed to exercise such discretion at the interlocutory stage.

21. In the present case, the rival contentions as to whether the respondent-wife left the matrimonial home voluntarily or was subjected to cruelty, whether she is entitled to maintenance at all, and what should be the appropriate quantum considering the income of the husband and the needs of the wife, are all matters which require evidence and detailed adjudication. These questions cannot be conclusively answered at the stage of interim maintenance. The learned Trial Court has consciously exercised its discretion with the clear understanding that the grant of ₹40,000/- per month is purely interim, tentative and without prejudice to the rights and contentions of either party at the final stage. The fact that interim maintenance has been granted, and the amount thereof, will have no bearing whatsoever on the final determination of entitlement or quantum after the conclusion of evidence.

22. This Court finds no palpable error, perversity or illegality in the concurrent orders passed by the Courts below so as to warrant





interference in revisional jurisdiction, either at the instance of the husband seeking reduction/set aside of interim maintenance or at the instance of the wife seeking enhancement thereof. The discretion exercised is within the parameters of law, based on a *prima facie* assessment, and subserves the limited object for which interim maintenance is envisaged.

23. Consequently, both the revision petitions are devoid of merit and are hereby dismissed. However, considering that the proceedings under Section 12 of the Protection of Women from Domestic Violence Act have been pending for a considerable period, the learned Trial Court is directed to make all endeavours to conclude and finally dispose of the main application under Section 12 of the Act expeditiously, preferably within a period of six months from the date of receipt of a copy of this order, in accordance with law.

24. It is clarified that all observations made herein are confined to the adjudication of the present revision petitions and shall not prejudice the rights and contentions of either party at the stage of final adjudication before the learned Trial Court.

**(FARJAND ALI),J**

13-Mamta/-