

MHCC050004972021



Received on 28/01/2021
Registered on 28/01/2021
Decided on 05/05/2025
Duration 4 Y. : 3 M. : 7 D.

Exh.29

IN THE COURT OF SESSIONS, AT DINDOSHI
(BORIVALI DIVISION), GOREGAON, MUMBAI
COMMON JUDGMENT

IN
CRIMINAL APPEAL NO.16 OF 2021
AND
AND CRIMINAL APPEAL NO.44 OF 2021

CRIMINAL APPEAL NO.16 OF 2021

[REDACTED]

Age : 41 Years, Religion : Sikh.

Occ. : Housewife,

[REDACTED]

[REDACTED]

[REDACTED] Saki Naka, Andheri (E),

Mumbai -400 072.

....Appellant

V/s.

1. [REDACTED]

Age : 44 Years, Religion : Sikh.

Occ. : Businessman,

Having address at :

[REDACTED]

[REDACTED]

[REDACTED]

Saki-Naka, Andheri (E), Mumbai-400 072.

2. [REDACTED]

Age : 78 Years, Religion : Sikh.

Occ. : Businessman,

R/o. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] Saki Naka,

Andheri (E), Mumbai -400 072.

3. [REDACTED]

Age : 76 Years, Religion : Sikh.

Occ. : Housewife,

R/o. : [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] Saki Naka, Andheri (E),

Mumbai -400 072.

.....Respondents

Advocate Mr.Muzumdar for appellant.

Advocate Saveena Bedi for respondent No.1.

Advocate Uday Pal for respondent Nos.2 and 3.

CRIMINAL APPEAL NO.44 OF 2021

MHCC050002072021



Received on 13/01/2021

Registered on 22/03/2021

Decided on 05/05/2025

Duration 4 Y. : 3 M. : 22 D.

[REDACTED]
Age : 44 Years, Occ. : Business,
[REDACTED]
[REDACTED]
[REDACTED]

....Appellant

V/s.

[REDACTED]
Age : 43 Years, Occ. : Housewife.
[REDACTED]
[REDACTED]
[REDACTED] Saki Naka, Andheri (E),
Mumbai -400 072.

2. [REDACTED]
Age : 80 Years, Religion : Sikh.
Occ. : Businessman,
R/o. : [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] Saki Naka,
Andheri (E), Mumbai -400 072.

3. [REDACTED]
Age : 76 Years, Religion : Sikh.

Occ. : Housewife,

R/o. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] Saki Naka, Andheri (E),

Mumbai -400 072.

.....Respondents

Advocate Saveena Bedi for appellant.

Advocate Mr.Muzumdar for respondent No.1.

Advocate Uday Pal for respondent Nos.2 and 3.

**CORAM : H. H. THE SPECIAL JUDGE,
Ms. S. J. ANSARI, (C.R.NO.11)
DATED : 5th May, 2025**

O R D E R

Both the appeals before me have been filed to challenge the judgment dated 18/02/20 in C.C. No.32/DV/2018 as passed and pronounced by the learned Metropolitan Magistrate, 66th Court, Andheri, Mumbai in a complaint which had been filed under the provisions of the Protection of Women from Domestic Violence Act, 2005 (hereinafter referred to as “the D.V. Act”).

Brief facts of the matter are as follows :

2. The complainant in the D.V. proceedings is the wife of Kulvinder Singh Bansal and the daughter-in-law of Gurudev Singh Bansal and Spinder Kaur Bansal. In order to avoid any confusion while deciding both the appeals together by way of a common judgment, the parties

i.e. the wife shall hereinafter be referred to as-the “complainant” while the husband and his parents shall be referred to as “the respondent Nos.1, 2 and 3” respectively. In the application filed under the D.V. Act, the complainant stated the fact of having been subjected to domestic violence at the hands of the respondents. She therefore, sought various reliefs i.e. maintenance, a residence and protection order from the learned Metropolitan Magistrate, etc. A part of the said claim came to be allowed by the learned Trial Court against which the appeal No.16/21 has been filed to seek the enhancement of the monthly maintenance of Rs.1 lack each granted to her and her minor daughter, an order directing that the maintenance granted to her daughter should be directed to be paid till she reached the age of 21 years, and the enhancement of the compensation of Rs.5 lakhs as granted to her, as also an order to restrain the respondents from creating third party rights regarding the assets and properties mentioned by her in the original complaint. The husband in his appeal No.44/21 is seeking the setting aside of the order passed by the trial court regarding the reliefs granted to his wife.

The facts as alleged by the complainant i.e. the aggrieved person in her complaint are as follows :

3. The marriage of the complainant with the respondent No.1 i.e. Kulvinder Singh Bansal had taken place on 12/12/97 at the Gurukrupa Hall in Chembur. Thereafter, the said complainant started living with respondent No.1 and his parents. As regards her educational qualifications, the complainant contended that she had a degree of Bachelor in Home Science in Textile and Clothing from the Mumbai

University while respondent No.1 has studied upto B.Com and had then started looking after his family business along with his father. After their marriage, the mother-in-law of the complainant had taken her to various gurudwaras for seeking blessings to enable her to have a son. In February 1998, the complainant became pregnant with triplets, but had a miscarriage due to the stress in the family on account of respondent No.1 and parents-in-law, who used to blame and taunt her. The atmosphere in the family, as per the complainant, can be seen from the fact that on 24/07/1998 on her birthday, her mother had gifted her a diamond ring due to which her sister-in-laws got jealous. They then started coming home, taunting her and picking up fights with her. Hence, as the complainant was not able to bear the said torture, she had on one occasion, taken some sleeping pills due to depression. This was because, soon after her marriage, the complainant noticed that her in-laws fought for trivial reasons, while the respondent No.1 would often get upset and say that he would kill her. Thereafter, the complainant related the facts regarding an incident which had occurred in September 1998 in which according to her, the respondent No.1 had slapped her resulting in her suffering from bruises. The respondent No.1 had thereafter, as per the complainant, dragged her out of the matrimonial home and pushed her into the car to leave her at her parents house. But, as the complainant did not come out of the car as there were bruises over her face and as she did not want her parents to get shocked on seeing her condition, the respondent No.1 brought her back home.

4. In the month of April or May 1999, the complainant again became pregnant. But the respondent No.1 used to beat her black and

blue on trivial issues resulting in she being confined to bed rest for quite sometime. She then went to her parental home for the delivery. The complainant gave birth to twin sons on 17/01/2000. Thereafter, all the respondents approached her parents and made false promises and gave assurances to look after the complainant, with the respondent No.1 even saying that he would not repeat any acts of violence against her. Consequently, the complainant returned to her matrimonial home. However, she was not allowed to breast feed the infants who used to be given bottled milk. While she was made to work in the kitchen for long hours, her infants were kept away from her. Whenever the complainant informed the respondent No.1 about the same, he used to either ignore her request or scold her. On one occasion, there was a major fight in which the respondent No.1 beat her badly and pushed her down on the floor by kicking on her stomach. Even her mother-in-law had hit on her head by saying that she did not have any sense and that she is useless. The complainant was then locked inside the room by one of her sisters-in-law and even her infants were taken away. She was allowed to come out only after she assured that she would not meet her parents and brothers and would also not allow them to come over to her place. Only then did the respondent No.1 come back home with the infants.

5. On 05/05/2000 the respondent No.1 got so aggressive on a trivial issue that he twisted the complainant's hand and fingers due to which she suffered a fracture. He was also in the habit of throwing stuff and articles on the head of the complainant and hitting her with the buckle side of his leather belt. These incidents were witnessed by the complainant's parents-in-law, but they did not take any action regarding it and always sided with their son.

6. In the year 2003, all the respondents, as per the complainant, had purchased a house in Vasukamal building at Sakinaka after which they shifted most of the articles to the said place. But, they refused to allow her to stay in the said house till they disposed off their home in Anmol Apartment in 2012. It was only thereafter that the complainant started residing in the flat in Vasukmal building, and was still residing there till the filing of the complaint. The said house, as per the complainant, is therefore, a shared household.

7. On 02/03/06 the complainant gave birth to a daughter which made the respondent Nos.2 and 3 unhappy. On one occasion, when the complainant refused to cook breakfast as she was running a high fever, the respondent No.1 dragged her and threw her out of the house. Such incidents used to take place up to ten number of times in spite of which the respondent Nos.2 and 3 never stopped their son from doing so.

8. After the birth of their daughter, the respondent No.1, as per the complainant's contentions, started coming home late and avoided having dinner at home. Gradually, he started giving less time to the family, thereby causing mental agony to the complainant. Not only this, but though she used to be given a fixed amount of money to run the house, the respondent No.1 always made her account for the money given to her. Shockingly, if the accounts did not match the amount of money given to the complainant, the respondent No.1 would either beat or abuse her. Sometime in 2011, the complainant learnt about respondent No.1 showing unnecessary concern for a female staff member i.e. a lady called Shital Lade. She also came to know that he was going to buy the said lady a flat. In this period, the respondent

No.1, as per the complainant, became indifferent towards her and picked up quarrels on trivial issues in which he always used foul language. During a major fight in 2011, he had pushed her so hard that she banged against a wall and started bleeding profusely on account of an injury to her forehead. As she became unconscious, the respondent No.1 took her to the Mukund Hospital, falsely stating that the complainant had fallen down and injured herself. He then had plastic surgery done on the scar mark of the complainant. Not only this, but on a different occasion, the respondent No.1 even kicked the complainant on her stomach due to which she suffered internal swelling and required medical treatment. However, on being threatened by him that she should say that the injuries had occurred on account of her daughter jumping on her stomach, the complainant had done so and did not state the correct facts to the hospital.

9. On 27/02/12, the respondent No.1 informed the complainant that he was coming from the Delhi/Amristar flight in the afternoon. But when she went to receive him at the airport, she found respondent No.1 and Ms. Shital Lade coming out from the Ibis Hotel. This resulted in the complainant wanting to leave her home along with the children. But the respondent No.1 did not allow her to do so as he pulled out the car keys, threw them in the garden and dragged her back home. In spite of this, the respondent Nos.2 and 3 did not do anything regarding their son's extra-marital affair.

10. On 25/05/12 when the respondent No.1 came home from the factory, the complainant made general inquiries with him regarding his work and other things. Surprisingly, the respondent No.1 hit her badly

with a mosquito bat, hanger, shoes, etc. and left to go to his friend's place along with his children for a house warming party. Though he subsequently apologized for his behaviour, the respondent No.1 continued with his bad habit of abusing and ill-treating the complainant. This resulted in the relations between them becoming estranged. The complainant therefore, fell into depression and also felt like ending her life. But, as she did not want her children to suffer and be brought up by a single parent, she bore all the torture and cruelty meted out to her at the hands of respondent No.1.

11. In spite of this, the respondent No.1 continued assaulting the complainant. On 07/10/13 he again beat her black and blue and injured her eye. As the children's examinations were going on, she kept silent even though she wanted to leave her home. In the year 2014, all the respondents forced the complainant to sign the gift deed for Flat No.103 in Patel Paradise building, which belonged to her, in favour of one Baba Narinder Singh of Nanded Trust. As the parents-in-law of the complainant had promised her that they will transfer the flat No.1003-A in Vasukamal CHS in her name and the name of respondent No.1, and assured her that the shared household in Mumbai was more convenient for the sake of her children, she did not take any action regarding the said gift deed.

12. Even then the complainant continued suffering tremendous pain in her married life. Her parents and brother even stopped interacting with her by thinking that she would be subjected to harsh conduct by respondent No.1, if they intervened. Thus, due to the mental and physical torture undergone by the complainant, she developed a

suicidal tendency for which she was constrained to take medical treatment and counselling in the year 2011 and in the year 2016. Not only this, but in September 2016, the respondent No.1 stopped communicating with her, shifted his bedroom and even stopped giving her money to run the household. He also gave flat No.1002 in the Vasukamal building on rental basis and took away the deposit money given by the licensees. Not only this, but he had also told the tenants to deposit the entire amount of the rent in his account. But, after the complainant's request, the tenants started paying her half of the total rent. Subsequently, however, the Flat No.1002 in Vasukamal building, came to be attached by the Hon'ble Indore High Court regarding which the complainant was completely unaware.

13. Another incident dated 13/11/16 which had occurred at about 10.00 p.m. has then been related by the complainant to show the fact of she having always been subjected to domestic violence at the hands of the respondent No.1. At that time, though the respondent No.1 was supposed to bring the vegetables, he had not done so. When the complainant asked him about it, he stated that he would bring them on the next day. When she told him that the vegetables were required for the tiffin of the children for the next morning and that she had sent her cook to get 1 kg. of potatoes from the market, the respondent No.1 became very wild and started shouting at her. He then removed his leather belt from his pant, rolled it in his hands, held his wife's face with one hand while he put his heel on her foot and quashed the same with force. The complainant then stood up from the dining chair at which respondent No.1 put her against the wall and again squashed her foot. Though she tried her level best to save herself, the respondent

No.1 held her arms, pushed her on the sofa and thrashed her. Lastly, he picked up the wooden table having a glass top and banged it so forcefully on her head a couple of times that the said table broke completely. Due to this, the complainant started bleeding, inspite of which respondent No.1 continued hitting her and saying that he would kill her. The complainant then called her sons and told them to inform the police and call an ambulance. She somehow managed to collect her bag and cell phone and then left for the Seven Hills Hospitals with one of her sons. On her way, she informed her siblings about the incident and asked them to bring money for her hospitalization. On reaching the hospital, the complainant collapsed and became unconscious. She was then admitted as an indoor patient and regained consciousness on the next day. Her statement then came to be recorded by the Powai Police Station. However, after being discharged, the complainant again went back to the shared household in Vasukamal building in order to look after her children.

14. By this time, the Powai Police Station had carried out the preliminary investigation in the matter and registered the FIR bearing Crime No.524/16 u/s.326, 323 and 504 of the IPC against the respondent No.1 and arrested him on 14/11/16. Even though the offence u/s.498-A of the IPC was clearly made out, the officers of the Powai Police Station did not register the same. The respondent No.1 was then granted bail on 25/11/16.

15. After this incident however, the harassment and the mental torture of the complainant increased, as the respondent No.1 started compelling her to sign an affidavit so that the criminal case registered

against him could be settled or quashed. By this time, he had also stopped performing his matrimonial obligations and even contributing towards the household expenses, the daughter's expenses, society maintenance, etc. He had even stopped paying money to his wife for meeting her personal needs, as also for paying for their daughter's school and tuition fees.

16. Not only this, but the respondent Nos.2 and 3, as per the complainant, started pressurizing her to withdraw the FIR lodged by her against respondent No.1, threatening her that otherwise, they would forcibly remove her from the shared household. Consequently, the complainant has contended that all the respondents in connivance with each other, had caused economic violence to her. Thereafter, on 22/12/17 the respondent Nos.1 to 3 along with complainant's sons collected some of their belongings along with the property documents as also the complainant's medical papers and left the shared household to go to some undisclosed place. Not only this, but the respondent No.1 also instigated his sons to compel their mother to withdraw the complaint lodged by her against him. This behaviour of the respondents, as per the complainant, resulted in her minor daughter developing a behavioural disorder and suffering from depression.

17. In such circumstances, stating that in the 20 years of her marriage she had given everything to the respondent No.1 and family members, the complainant on the other hand, as per her contention, was herself, mentally and emotionally completely shattered. It was, according to her, impossible to carry on her life as before, as her life with respondent No.1 had become a living hell. Not only this, but an

NC complaint bearing No.215/18 dated 17/01/18 also came to be filed by the complainant with the Powai Police Station for an offence u/s.506 of the IPC on account of the threats given to her by respondents to compel her to withdraw the criminal case filed against respondent No.1.

18. As regards the financial condition of respondents, the complainant has stated that in the year 2000, the respondent No.1 along with her, had formed a private limited company known as “Prima Steels” in which she had been made one of the directors. But, as she was only a housewife, it was only the respondent No.1 who used to manage the affairs of the said company and used to take her signatures on the documents and papers whenever required. The complainant further stated that he used to pay her a monthly amount which initially was Rs.60,000/- but which gradually increased to Rs.83,000/-.

19. In June 2010, the complainant and respondent No.1, as per her contentions, purchased two residential premises for about 1.30 crores bearing flat No.1101 and flat No.1102 in the name of the husband. But the couple did not reside there and ultimately, the property came to be disposed off at the instance of the respondent No.1 and his family members. In the year 2012, the complainant has contended that the savings made by her from the amount received by her as a director in Prima Steels Private Limited, was utilized by the respondents for purchasing flat No.B-103 on the first floor in Patel Paradise building, Kharghar. Again in the year 2015 the respondent No.1 made her sign some documents and then told her that they had thereby sold Prima Steels Limited factory for Rs.7.50 crores. He then utilized part of the amount of about 1 crore 70 lakhs to purchase the flat No.1002-A in

Vasukamal CHS Limited in both their names. But, though the complainant had her own shares in the Prima Steel Company and was therefore, entitled to the funds realized from disposing of the same, no such money was given to her. Thereafter, another private limited company known as “Sophus Elevators Private Limited” having its address at Bansal Estate came to be formed. Even the new company formed, as per the complainant has a vast business spread over five States and 11 cities and its annual turn over is about 20-25 crores. Hence, stating that as it had been established from the funds which were jointly earned by her and respondent No.1, the complainant is contending that she is entitled to receive substantial money from the same, yearly.

20. She has then stated that respondents own, possess and hold various immovable properties. These are as follows :

- a) Flat No.1003/A, Vasukamal CHS Ltd., Opp. Guru Kripa Hotel, Saki-Vihar Road, Saki Naka, Andheri (E), Mumbai.
- b) Flat No.1002/A, Vasukamal CHS Ltd., Opp. Guru Kripa Hotel, Saki-Vihar Road, Saki Naka, Andheri (E), Mumbai.
- c) Bansal Niwas, Plot No.120 admeasuring 200 Sq. Mts., Sector 20, Opp. Iskon Temple, Kharghar, Navi Mumbai-410 210.
- d) Bansal Niwas, Plot No.121 admeasuring 200 Sq. Mts., Sector 20, Opp. Iskon Temple, Kharghar, Navi Mumbai-410 210.
- e) Row house No.3 and Row house No.4 at Jai Raj Complex “B” Apartments, Old Khandala road, Lonavala.
- f) Bansal Estate, 682, Saki-Vihar Road, Opp. Chandivali Petrol Pump, Saki Naka, Andheri (E), Mumbai-400 072.
- g) A factory/premises in Rabale, Navi Mumbai given on lease.

21. As regards her monthly expenses, the complainant has stated that respondent Nos.1 and 2 used to pay a sum of Rs.3 lakhs per month for the household expenses, car expenses and other payments towards her minor daughter's expenses. The complainant has further stated that the expenses for her daughter's food, clothing, education, etc. in the year 2018 was Rs.1,00,5,000/- per month, which expenses will increase upto 20 % for each succeeding academic year. Stating that she also needs money to make payments towards medical claim policies, LIC premium, MTNL bills, electricity, society maintenance and other household expenses amounting Rs.1,95,000/- per month, the complainant has sought the said sum of money as her monthly maintenance. She has also claimed a lump sum compensation of Rs.12 crores, Rs.2 crores on account of emotional distress, mental agony, torture, violence and cruelty as also for loss of income, Rs. 5 crores for meeting the further expenses of her daughter's education and marriage, a protection order to restrain respondent No.1 and in-laws from causing any violence or mental harassment to her. An order prohibiting them from entering and interfering with her and her daughter's possession of flat No.1003/A and 1002/A at Vasukamal CHS Limited, Sakinaka, Andheri (E), Mumbai and to restrain them from transferring, alienating or creating any third party interest in the properties i.e. various flats, Bansal Niwas, the row houses and the shares held in the Sophus Elevators Private Limited are the further reliefs sought by the complainant.

22. On being served the respondent i.e. the husband and the parents-in-law of the aggrieved complainant, appeared in the matter and filed their reply. Therein, they admitted the marital relations between the

complainant and the respondent No.1 as also the fact of the respondent Nos.2 and 3 being the parents of the respondent No.1 and therefore, the in-laws of the complainant. Obviously, the respondents denied all the allegations as made against them by the complainant regarding her ill-treatment at their hands. On the other hand, they have come with a stand of the complainant being short tempered and quarrelsome by nature. It has also been stated that she used to behave violently and even used to beat the respondent No.1 and their children.

23. With regard to the respondent No.3 having taken the complainant to various gurudwaras after her marriage, the respondents have stated that the same had done only due to religious feelings and to take blessings. It was however, denied that the respondent No.3 had done so only so that the complainant would give birth to a son. It has then been stated that the complainant's father, at the time of she becoming pregnant with triplets, had tried to convince them that the pregnancy should be aborted as he wanted his daughter to establish her career and to conceive after the age of 30 years. This was however, not accepted by the respondents. Consequently, the complainant and her father quarrelled with the respondents in spite of which they did not agree to the abortion. Then, as per the respondents, the complainant's father demanded that his daughter's first delivery should be at her parental home. They then caused the complainant's miscarriage by putting forth the ground that the pregnancy was endangering her life. Not only this, but the complainant and her family members, as per the respondents, had never informed them when the miscarriage had happened.

24. The respondents have then alleged that the complainant used to behave in a whimsical manner and used to quarrel with them on one pretext or the other with the help of her father and brother. Without any reason, she-according to them, had insulted and abused them on various occasions. Even though the respondent Nos.2 and 3 used to live separately from the complainant and the respondent No.1, the complainant, according to them, frequently visited their residence and quarrelled with them, going to the extent of threatening them that she will ruin them, bring them on the road and cause their names to be published in the front page of the national newspaper.

25. Thereafter, the respondents while admitting that the complainant had again conceived, have denied the fact of she having ever been harassed either physically or mentally by any of them. They also admitted the fact of the complainant's delivery having taken place in her parental home, after which the twin sons born had been brought back to the home of the respondent No.1. Denying the alleged incident in which it was stated that the respondent No.1 had taken away the two infants from the home so as to prevent the complainant from breastfeeding them, after which it was alleged that the children were brought back only after the complainant had promised that she would not be in touch with her family members and not even call them to her home, a completely different version of the matter has been given by the respondents. According to them, it was the complainant who was of the firm opinion that breast feeding children will badly affect her capability due to which she always behaved with cruelty towards the babies. Stating that the complainant frequently visited her parental home while leaving her new born children at her matrimonial home, it

has been contended that she always insulted respondent No.1 in filthy language and stated that she would completely ruin him.

26. Denying the fact of the respondent No.1 husband ill-treating the complainant, he has, on the other hand, contended that on one occasion the complainant had warned him that he should beware of her as she wished that his genital organ would be chopped by her. These actions of the complainant, as per the respondents, were treated by them with a sympathetic attitude as she was under psychiatrist treatment regarding which her father had confessed to the respondent No.1 after one month of their marriage. Stating that the ever increasing fights and the disturbed atmosphere created by the complainant at home had resulted in the complainant's parents-in-law purchasing another flat in 2003 from their own savings after which they shifted to the same, the respondent No.1 and the complainant, as per his contentions, continued staying at the flat in Anmol Apartment till 2012.

27. Thereafter, in 2012, the complainant and respondent No.1, as per the respondents, approached his parents by saying that they needed a place to stay in Mumbai and requested them to let them stay in flat No.1003 in Vasukamal building. The parents of the respondent No.1 then, as per the respondents, allowed them to stay in the said flat while they shifted to the place at Kharghar.

28. Denying the fact of being responsible for the ill-health of the complainant, as also her depression, the respondent No.1 has stated that she would never get out from her bed till 11.00 a.m. while he used to leave his house at 8.00 a.m. for his office. Therefore, stating that he

had appointed various persons for doing cooking and all other household works, that he and his family members had always treated the complainant with love and affection, they have denied all the incidents of harassment as mentioned by the complainant in the complaint.

29. Stating that the expenses of the family were increasing very fast due to which it had become necessary for the respondent No.1 to increase his income, it was contended that therefore, a new industrial unit was started by him at R-267, TTC Industrial Area, MIDC, Rabale, Navi Mumbai for which he was completely dependent upon the complainant for the technical knowhow as she was a textile engineer. But, she had never co-operated with him. This is because, inspite of having seen 2-3 industrial units at Rabale, MIDC area, the complainant, as per the respondent No.1, had selected a sick unit which was situated adjoining her father's industrial unit. Though the respondent No.1 tried to convince the complainant that the said unit had a high cost and was inconvenient, she pressurized him to purchase the same only because it was adjoining her father's unit.

30. Thereafter, as per the respondent No.1, he and the complainant jointly established the company named as "Prima Steels Private Limited" in which both of them were the directors. The complainant, as per the respondent No.1, was taking care of the purchases, human resource, bank transactions and of cash receipts and payments of the said company. Not only this, but it has also been contended that the complainant had always interfered in the running of the company due to the poor economic condition of her father and brother for whom she

had siphoned money off from the company. This as per the respondents, resulted in the unit going into a loss, for which it was stated that they would initiate the legal action against her in the appropriate court.

31. With regard to the flats situated in the West Wind building at flat No.112, sector 50, Nerul, Navi Mumbai, the respondent No.1 has stated that the initial amount had been paid as down payment and a loan had taken from the IDBI Bank for the balance amount. However, as the complainant had started misappropriating the company's funds due to which the losses had increased and the salaries also could not be paid in time, the said loan account, as per the respondent No.1 had to be closed by selling off the flats as a distress sale.

32. As regards the allegations of the respondent No.1 having an extra-marital affair with a lady working in his office, it has been stated that the said allegation is completely false. In fact, as per the respondent No.1, when the complainant had made the said allegation, he had offered to take her to the Ibis hotel to check the hotel records but she had refused to come and had continued making false allegations. Though even her in-laws tried to make the complainant understand, she threatened them that she would spoil their family name by making such allegations after which nobody would respect their family. This behaviour of the complainant, as per the respondents, was also because of she excessively using sleeping pills due to which she remained drowsy for many hours and imagined the incidents and people around her. She, as per the respondents, would sit for hours in front of the T.V, neglect the household work and would even not supervise the work of the servants. Though the children would leave in

the morning and come back in the evening, the complainant, as per the respondents, would not bother to see to their home work and other activities. Cooking and other things were done by the servants and hence, the complainant, as per the respondents, neglected to perform her duties as a wife, daughter-in-law and a mother.

33. With regard to the allegations of the complainant having been compelled to gift a flat owned by her to a Gurudwara in Nanded, it has been stated that it is her father who is a follower of the Gurudwara at Nanded. When Baba Narinder Singh requested the complainant's father to donate a big amount, he, as per the respondents, suggested that they were not so well to do and asked him to approach his daughter's in-laws for the same. He also requested the complainant's parents-in-law to give a donation to Baba Narinder. When the said matter was discussed, the complainant offered to give the flat No.B-103, Patel Paradise as a gift to Baba Narinder. But, as per the respondent No.1, he had been taken completely by surprise when his wife and father-in-law had offered the flat to Baba Narinder as a gift. In spite of this, as the function was going to be held amongst a huge crowd, the respondent No.1, as per his contentions, kept quiet and accepted the decision of the complainant and her father. As the family of the respondent No.1 and the complainant was staying in the flat, they then shifted to the house of the respondent Nos.2 and 3 in the flat No.A-1003 in Vasukamal building.

34. With regard to the funds at the disposal of the respondents, they have stated that it was the complainant who had exhausted all the funds available in the bank accounts of the company-Prima Steel Private

Limited. Stating that there was a bank loan of Rs.2 crores to be paid to the Corporation Bank while an amount of more than 4-5 crores had to be paid to the creditors so as to avoid becoming a non-performing asset, it had been - as per the respondent No.1, collectively decided that the properties of the company would be sold. This, as per the respondents, can be seen from the fact that one M. Shetty-who was a friend of the complainant's brother, also used to stay at Vasukamal. He introduced the purchaser and set up meetings with the said person, who was also having the surname Shetty. Stating that the deal was initiated by the complainant who had taken payments i.e. cheques all of which had been utilized to pay the loan of the bank and some creditors, flat No.A-1002 was then, according to the respondents, not found to be O.K. in its documentation. But the complainant threatened to commit suicide if the flat was not purchased. She also started pressurizing respondent No.1 to purchase the flat. Hence, inspite of many liabilities existing regarding the company, the respondent No.1 purchased the flat in October 2015.

35. With regard to the said flat, the respondent No.1 has then stated that he had used the deposit amount for making some repairs in the flat and that it was tenants who had mistakenly deposited the whole rental amount in his account. Stating that he had given the debit card of his account in the PMC bank to the complainant which amount was then used for home expenses, it has been stated that the fact of the said flat being in dispute was known to the complainant since the beginning but that it was she who had compelled him to purchase the flat only because her father and brothers had convinced her about it.

36. The respondents have then stated the facts of the incident which according to him, had occurred on 14/06/16 i.e. on the occasion of 75th birthday of the respondent No.3. According to them, a small gathering had been arranged at the flat A-1003 in Vasukamal which was followed by a religious function, a prayer meeting and langar. Due to this, the complainant got annoyed as she wanted even her birthday to be celebrated in the same way. Though the respondent No.1 assured her that he would do so, she would taunt him that he does not care for her at all.

37. It has then been stated that the respondent No.2 - who is the father of the respondent No.1, had made small gold pendants for all his daughters and the complainant. When she came to know about the same, the complainant started insisting that she should be taken to the jeweller for choosing the jewellery. But, the purchase having already been made, the said fact angered the complainant who started making tantrums and ill-treating the respondent No.3 i.e. her mother-in-law. When the respondent No.1 asked her the reason for her behaviour, she told him that his mother had taken his sisters for purchasing the jewellery and hence, she should ask her daughters for food and medicines. Thereafter, the respondent No.1 had started taking care of his mother. Not only had the complainant stopped taking care of her mother-in-law, she, as per the respondents, stopped taking care of the house and neglected all her duties towards it as also towards her family members.

38. It has then been stated that the factory premises of Prima Steel had to be sold as it had gone into a loss due the complainant siphoning

off its funds. This resulted in the respondent No.1 being required to work on holidays and Saturdays to pay all the dues of the government and other creditors. In spite of knowing the expenses and troubles, the complainant, as per the respondents, made her daughter leave a good school in Juhu and join a school near Powai, in which the fees were 10 times more than that of the previous school. When asked to reconsider the said decision, the complainant, as per the respondent No.1, again started creating problems in the house due to which he had to give into her wishes.

39. Denying the fact of not providing sufficient money to the complainant for running the household, the respondent No.1 has stated that the complainant would finish all money given by him by the 20th of every month. She would then, as per his contentions, hand over the balance money to him asking him to manage for the remaining month. Denying the fact that she was ever abused or insulted by him, the respondent No.1 has stated that it was she i.e. his wife, who would talk rubbish to him. This had therefore, resulted in the respondent No.1 sending a message to the complainant's brother and sister on 16/09/16, as also to her father. The complainant's father and brother Raunak Singh came to the house of the respondent No.1 where she told them a false story of respondent No.1 having affairs. Hence, her father and the brother-instead of understanding the correct situation, started abusing and threatening the respondent No.1 with shooting and hanging him. They then left the premises. Though the respondent No.1 also wanted to leave his residence, he decided to stay only for the sake of his children. Further, though he also sent the messages to his wife asking her to stop the torture so that they could have another chance to save

their marriage, she according to him, continued with her erratic behaviour, which was because of her sick mental condition.

40. With regard to the alleged incident in which the respondent No.1 was stated to have broken a table on the complainant's head, he has stated that he served himself food after returning home on 13/11/16 and was sitting with his son having his food and watching T.V. in the living room. The complainant then came out of her room and started giving abuses to him saying that he did not take care of the house and that the vegetables and other things were needed at home. When the respondent No.1 checked the provisions at home, he found that all the things were available. But knowing that her lies had come in front of the children, the complainant in a fit of anger, as per the respondent No.1, started threatening that she would destroy his life. The complainant then again started abusing the respondent No.1 and held him by his waist, and also started pulling him down on the floor. But, as per the respondent No.1, when she found that she could not throw him down, she started slapping him on his face which loosened her grip on his waist. At the same time, respondent No.1 tried to save himself and his turban by jerking the complainant away. At this time, she according to him, lost her balance and fell backwards on the center table which therefore, broke due to the weight of the complainant. Some nails which had been fixed on the wood hurt the complainant resulting in blood oozing out from her injury. Seeing this, the respondent No.1, as per his contention, had told his wife to sit and that he would get an ice pack for her from the refrigerator. But, when he went inside and came out with ice, his son told him that his wife had left with the other son for going to the hospital. By this time, the daughter of the parties had

got up from sleep and came out crying. She then started picking up the pieces of glass which was also being done by the respondent No.1 and his son.

41. The son who had accompanied the complainant then called home and informed his brother that their mother had called her father and brothers as also her sister to the hospital and they were going to call the police. Hence, to avoid further arguments and other complications, the respondent No.1 stayed at home with the children. He later on came to know that as the respondent No.2 had been informed about the incident, he had also reached the hospital where the complainant was admitted. After completing all the formalities and paying the deposit required for the complainant's treatment, the respondent No.2 according to the respondents, had completed the necessary formalities. In such circumstances, the respondent No.1 had stated that he had not gone to the Seven Hills hospital where the complainant had been admitted, only in order to avoid further clashes with his wife's family. Subsequently, as per the respondent No.1, the complainant and her family members after careful planning, filed the FIR against him on 14/11/16 in the evening by making false allegations. The respondent No.1 then appeared in the Court subsequent to which he was released on bail whereupon he went to reside with his father.

42. In the result, stating that all the properties mentioned in the complaint had been originally purchased by the respondent No.2 i.e. his father, the respondent No.1, as per his contentions, does not have any control over them. Not only this, but as per the respondent No.1, the complainant has sought to mislead the court regarding his financial

capacity. This is because, the company formed by him has huge outstanding liabilities of almost 9.72 crores. Further, contending that the complainant possesses movable property worth Rs.55 lacs, 1500 gms. of gold and diamond jewellery worth Rs. 30 lakhs, Rs. 20 lakhs as the amount received from the sale of the scrap of the factory at Rabale, the respondents sought the dismissal of the complaint with heavy compensatory costs.

43. The parties then went to trial. While the complainant examined herself and two other witnesses on her behalf and placed certain documents on the record, the respondents did not examine either themselves or any other witnesses. The judgment impugned in the two appeals then came to be passed.

44. Before proceeding ahead, I would at this stage, like to point out that as both the appeals are being decided by way of a common judgment, the judgment shall be placed on the record of Cr.Appeal No.16/21, while a copy shall be kept on the record of Cr.Appeal No.44/21.

45. In view of the pleadings and evidence on record, the following points arise for my determination in both the appeals and I record my findings against each one of them for the reasons as stated herein below :

Sr. No.	POINTS	FINDINGS
1.	Does the complainant prove that she being the wife of the respondent number 1 and the	Proved only against the husband.

	daughter-in-law of the respondent nos. 2 and 3 had been subjected to domestic violence by them?	
2.	Does the complainant further prove that she being an aggrieved person and her daughter are entitled to monthly maintenance from the respondents, and if so at what rate?	It has been proved that the complainant and her daughter are entitled to monthly maintenance from the respondent no.1 @ Rs.1,50,000/- and Rs.1,00,000/- respectively.
3.	Does the complainant further prove that her daughter is entitled to maintenance till she reaches the age of 21 years ?	In the negative.
4.	Does the complainant prove that she and her daughter have the right to reside in the shared household?	In the affirmative. The respondents are further restrained from alienating the said flat i.e. the shared household.
5.	Does the complainant prove that she is entitled to enhanced compensation, protection order as also a residence order against the respondents?	The complainant has proved that she is entitled to the enhanced compensation of Rs.1 Crore, from the respondent No.1, a protection order against him as also a residence order against all the respondents.
6.	What order ?	As per the final order.

REASONS

As to Point No.1 :

46. The pleadings of both the parties before the learned trial court will show that there is no dispute amongst them regarding the complainant and the respondent no.1 being a couple and the respondent no.2 and 3 being the complainant's parents in-law on account of the marriage between the complainant and the respondent no.1 having been performed on 12.12.1997. There is further no dispute about twin sons having been born to the complainant from the said wedlock on 17.01.2000, subsequent to which a daughter has also been born to them on 02.03.2006. The fact of the complainant having been subjected to domestic violence after her marriage by all the respondents is however, a question which has been hotly contested before the trial court.

47. In support of her contentions, the complainant has placed on record her affidavit by way of evidence (Exhibit 59). It goes without saying that therein, she has stated that after her marriage, her mother in-law had immediately taken custody of the expensive gifts and cash which had been received by her at the time of her marriage. Not only this but as per the complainant, her mother in-law had taken her to various Gurudwaras for blessings only so that she could give birth to a son. Though the complainant, as per her contention, became pregnant with triplets in February 1998, she suffered a miscarriage due to the stress in the family for which respondent No.1 and his parents used to blame and taunt her.

48. Relating an incident which had occurred on 24.07.1998 which was her birthday, the complainant (Exh.59) stated that her mother had gifted her a diamond ring. This made her sister in-laws jealous and they would often come home, taunt her and pick up fights saying that she was not fit for anything and had no sense. In the month of September 1998, the respondent no.1 as per the complainant hit her on her face, dragged her out of their home and pushed her into the car in order to leave her at the home of her parents. But, she refused to get out of the car and ultimately, the respondent no.1 cooled down and brought her back. In spite of this, when the complainant again conceived around April or May 1999, respondent No.1 i.e. the respondent no.1 - as per the complainant, beat her black and blue on trivial issues due to which she was on bed rest for quite some time. Ultimately, the complainant has in her affidavit by way of examination-in-chief (Exh.59), stated that she was forced to go to her parental home for her delivery. After she gave birth to twin sons, respondent No.1-as per the complainant's testimony, approached her parents, made false promises and gave an assurance to look after his wife, as also that he would not commit any violence against her. Based on the said assurances, the complainant - as per her testimony (Exh.59), returned to her matrimonial home.

49. The complainant has then deposed about her mother in-law not allowing her to breast-feed the infants, giving bottled milk to the children, making her work for long hours in the kitchen and keeping the infants away from her. All complaints made by the complainant to respondent No.1 regarding the same would, as per her evidence (Exh.59), result in he ignoring her or scolding her. On one occasion, he i.e. the respondent No.1 again - as stated by her in her affidavit

(Exh.59), beat her badly on account of a major fight and pushed her down on the floor by kicking her on her stomach. He also took away the three month old babies and disappeared for 2-3 days. The complainant's father in-law then broke the telephone lines to prevent her from contacting her parents and brothers, while her sisters in-law threatened her that her children will be taken away to Scotland. It was only when the complainant, as per her testimony, promised that she would not meet her parents, contact them on phone and would also not allow them as also her brothers to come over to her place, did respondent No.1 return with the sons.

50. Subsequently, the complainant gave birth to a daughter on 02/03/2006 who was named Prabhmeet Kaur. But, her parents in-law were unhappy with the same as they only wanted sons. Various babajis then as per the complainant's affidavit (Exh.59), visited her home and she was made to look after them. Though the complainant did so, she had on one occasion refused to cook breakfast as she was running a high fever. At this, respondent No.1 dragged her and threw her out of the house. This occurred umpteen number of times inspite of which the complainant's in-laws never stopped their son from doing so. The harassment took another turn for the worse when the complainant sometime in the year 2011 came to know that respondent No.1 had started dropping a complainant staff member called Sheetal Lade at Dombivali after office hours. She further learnt that respondent No.1 had also said that he would buy a flat for the said lady. On the other hand, the respondent no.1 as per the complainant, became indifferent towards her and used to pick up quarrels on trivial issues, always using foul language against her. During one such fight, the respondent no.1

according to the complainant (Exh.59), had pushed her so hard that she banged against the wall and became unconscious on account of a bleeding injury. She was then taken to Mukund Hospital, where respondent No.1 falsely stated that she had fallen down and hurt herself. On another such occasion the respondent no.1 kicked the complainant on her stomach due to which she suffered internal swelling and required medical treatment. Not only this, but as he threatened the complainant with dire consequences if she revealed the truth, the complainant - as per her affidavit-by way of examination-in-chief was forced to tell the doctor that the injury had occurred as her daughter had jumped on her stomach.

51. On 25.05.2012, the respondent no.1, as per the complainant (Exh.59), came home from the factory after which the complainant was generally asking him about his work and other things. He however, started beating her with a mosquito bat, hanger, shoes, etc. and later on left for a housewarming party along with the children. After coming back, he apologised for his behaviour. In spite of this, the respondent no. 1's habit of abusing and ill treating the complainant continued due to which the relations between them became estranged. Due to the physical and emotional abuse being suffered by the complainant, the couple as stated in the affidavit (Exh.59), lived like strangers under the same roof. Though the complainant also started suffering from depression, she was forced to bear the torture at the hands of respondent No.1 on account of her three minor children. Going further, on 6th or 7th October 2013, the respondent no.1-as per the complainant (Exh.59), again hit her on some trivial issue and injured her eye. Though she then wanted to leave home, she did not do so as

her childrens' examinations were going on. She also did not have the courage to approach any authority or even her parents, as earlier the respondent No.1 had taken away her children and brought them back only when she had promised that she would not inform her parents about anything which was going on in her home.

52. Thereafter, in the year 2014 however, all the respondents-as stated by her in her affidavit by way of evidence (Exh.59), forced the complainant to donate her flat in Patel Paradise building to one Baba Narinder Singh of the Nanded Trust. At that time, her parents in-law, as per the complainant had promised her that in return, they would transfer Flat no.1003/A in Vasukamal CHS Ltd. in her name and that of respondent No.1. The continuous, physical, emotional and economic abuse suffered by the complainant at the hands of respondent No.1 resulted in she developing a suicidal tendency and taking medical treatment for the same in 2011 and also in 2016. Further, in September 2016, the respondent no.1 - as per the complainant (Exh.59), stopped communicating with her, shifted his bedroom and even stopped giving her any money to run the house. He then, gave flat no.1002 in Vasukamal building which was owned by him and the complainant on rent, with a refundable deposit of Rs. 2,00,000. Rs. 1,50,000 was however deposited in the account of respondent no.1, while only Rs.50,000 was deposited in the complainant's account. At the same time however, the respondent no.1 - according to the complainant's affidavit by way of her examination-in-chief (Exh.59), ensured that all expenses incurred for the leave and license agreement, brokerage and registration were paid for from her account, thereby ensuring that the amount of money deposited in her account, was spent.

53. Though the complainant was receiving half of the rent i.e. Rs.32,500, the other half of which was paid to the respondent no.1, the said income stopped on account of the house being attached on the orders of the Indore High Court on 07.08.2018. Due to this, the licensees had to vacate the flat resulting in they demanding the return of their interest free deposit. As the respondent no.1 had received the major part of the deposit, the complainant asked him to return the same. But, he refused to do so. The said licensees as per the complainant's evidence, then came to her flat with their belongings and refused to leave till their deposits were returned. Ultimately therefore, the complainant was forced to borrow money from her brother to return the said deposit to the licensees.

54. By this time, as per the complainant (Exh.59), respondent No.1 had started telling her that he did not want her in his life. On one occasion, he even attempted to shift their minor daughter by changing her school. Not only this, but the complainant was also required to give an exact account of the money spent by her. She was also humiliated and abused by the respondent No.1 in front of her children and in-laws by using nasty names and expletives.

55. On 13.11.2016 at about 10.00 p.m. the respondent no.1 was supposed to bring vegetables. As he failed to do so, the complainant - as per her testimonial affidavit (Exh.59), asked him about it at which he said that he would bring them the next day. The complainant then told him that the vegetables were required for their childrens' tiffin the next morning and that she had told the cook to get 1kg potatoes from the market. Hearing this, the respondent no.1 - as deposed by the

complainant (Exh.59), became wild and told the complainant to call the cook back and loudly started saying “who gets all the money, so who will decide in this house?” He then removed his leather belt from his pants, rolled it in his hands and again repeated- “who runs the house and who can decide?” after which, as per the complainant (Exh.59), he held her face and stood on her foot with one of his heels and squashed the same. The complainant then stood up from the dining chair at which the respondent no.1 put her against the wall, held her hands and pushed her on the sofa after which he thrashed her. Thereafter, he-as stated by the complainant (Exh.59), picked up the centre wooden table and banged it on her head and kept doing so till the table broke completely.

56. As the complainant had started bleeding profusely, she, as per her testimony (Exh.59), told her sons to inform the police and call an ambulance. Somehow however, she then collected her bag and cell phone and left for going to the Seven Hills hospital along with her son. On the way, she informed her brother and sister about the incident and asked them to bring money for her hospitalisation. While reaching the hospital, the complainant became unconscious and the doctors then admitted her. Due to the said assault, the complainant suffered a 2.5 inch deep linear cut on her scalp for which she required 7-8 stitches. Her statement - as per her testimony (Exh.59), was also recorded by the Powai police station who then registered an FIR bearing no.524/2016 under section 326,323 and 504 of the Indian Penal Code against the respondent no.1, after which he came to be arrested on 14.11.2016.

57. A few months were then - according to the complainant (Exh.59), peaceful. However, the harassment and torture again started after some time. This took the form of the respondent no.1 stopping providing the money for his daughter's school and tuition fees, threatening the complainant to leave the home and also to involve her in false cases, unless she agreed to settle the criminal case pending against him. The respondent no.1 also started pressurising the complainant through his parents and his sons to compel her to sign an affidavit so that the FIR registered against him could be quashed. All the respondents even threatened her that she would be thrown out on the road to beg if she would not withdraw the case. Further, the respondent no.1, as deposed by the complainant, took away the Ford EcoSport car gifted to the complainant by her father-in-law, which was used by her for herself and for dropping her daughter to school and for bringing her back. Ultimately therefore, the complainant was compelled to approach the Special Cell for Women and Children at the Vakola police station for seeking the redressal of her grievances. As nothing fruitful emerged from the same, she filed the DV proceedings against respondent No.1 and in-laws, the judgement in which is under challenge.

58. It is therefore, clear that the complainant (Exhibit 59) has in her affidavit by way of evidence made clear allegations of severe physical, emotional as also economic abuse against respondent No.1 i.e. her husband. The allegations against the respondent nos. 2 and 3 however pertain only to the respondent no.2, father-in-law being the decision maker in their house, in spite of which he did not prevent his son from harassing the complainant. With regard to the respondent no.3, the allegations are a bit more i.e. of she always wanting only grandsons,

keeping the complainant away from her twin sons when they were infants and not doing anything to stop her son from harassing his wife. Another common allegation against the respondent nos. 2 and 3 is of they-along with their son, having forced the complainant to gift the house owned by her and respondent No.1 to Baba Narinder Singh of the Nanded Trust.

59. It will now be appropriate to turn to the cross-examination of the complainant (Exhibit 59) to ascertain as to whether her contentions have been able to be falsified in any manner or not. A perusal of the same will show that a significant part of the same deals with the omissions i.e. the facts asserted by the complainant in her affidavit by way of evidence, which did not however find place in the complaint filed by her under the DV Act. Before considering the same, it is essential to point out that the pleadings in any case - specially in quasi civil matters like the one in hand, are expected only to mention the facts which will make out the relevant allegations and are not expected to state the evidence necessary to prove the said allegations. This is all the more so, as though the procedure under the Code of Criminal Procedure is made applicable to the complaints which are filed under the DV Act, it will have to be appreciated that the said proceedings are obviously quasi civil in nature. Consequently, the complaints as filed under the D.V. Act cannot be expected to mention each and every minute detail of the harassment suffered by the complainant at the hands of the respondents. Hence, on the evidence of the complainant in such proceedings mentioning the said details, the same cannot be taken disadvantage of by classifying the said facts as omissions.

60. Turning now to the cross-examination of the complainant it will have to be noted that therein the contention of various facts as mentioned in para 3,4,5,6,7,8,9,10,11 as also at page no.12,13,14,15, etc. of the complainant's affidavit (Exh.59), not having being mentioned in the complaint have been brought forth. These omissions, in my opinion, as rightly pointed by Shri Mujumdar the Advocate for the complainant in his oral arguments as also in his written submissions (Exhibit 15), are quite immaterial to say the least. For example, though the complainant has admitted that the whole paragraph no.3 of her affidavit by way of evidence (Exh.59) does not find mention in her complaint, a perusal of the said paragraph will show that it pertains to the respondent nos. 2 and 3 being the father and mother of the respondent no.1, of the complainant-with the respondent no.1, residing with his parents in the shared household situated at Anmol Apartments building no.3, flat no. 603 and 604 till 2012, of flat No.603 being in the names of the respondent no.1 and his two sisters, while flat no.604 was in the name of the respondent no.3. The said paragraph further mentions that in or around November 2002 the respondents no. 2 and 3 had left home due to frequent quarrels between them which were causing disputes between the respondent no.1 and 3 and of the respondent no.3 returning back as she could not reside with the respondent no. 2. It is therefore clear that even though these facts have not been mentioned in the complaint, the same are not at all germane to the question of the complainant suffering domestic violence at the hands of the respondents. Hence, the said omission is completely inconsequential and therefore, does not merit any consideration.

61. Similar is the situation regarding the facts mentioned in paragraph 4, 5, 6 of the complainant's affidavit by way of examination-

in-chief (Exh.59). However, as regards the facts mentioned in para 7 which pertain to the respondent nos. 2 and 3 forcing the complainant to gift the flat owned by her and respondent No.1 at Kharghar, it needs to be noted that the said fact is clearly set out in the complaint. Not only this, but the fact of the complainant's parents in-law having stated that in turn, they would transfer flat no.1003/A in Vasukamal CHS Ltd. in her name and that of respondent No.1, has also been stated in the complaint. No doubt that the contention about the respondent nos. 2 and 3 having accepted the said fact in Writ Petition No.3972/2018 has not been mentioned in the complaint as filed under the DV Act. This however, cannot be termed to be an omission, as it is quite obvious that the said Writ Petition having been filed subsequent to the filing the said complaint under the DV Act in February 2018, its filing was obviously a subsequent event, which could not therefore, have been mentioned therein.

62. With regard to the facts mentioned by the complainant in paragraph 8 of her affidavit by way of evidence (Exhibit 59), the same pertain to she- having along with respondent No.1, moved into flat no.A-1003 in Vasukamal building opposite Gurukrupa Hotel, Saki Vihar Road, Sakinaka, Andheri(E), Mumbai and of they having continued residing there with their children as also along with her parents-in-law, subsequent to which her father-in-law left to reside in the bungalow Bansal Nivas. It will have to be pointed out that the complaint in para 6(x) has clearly mentioned the fact that the complainant had shifted there after the disposal of the flat in Anmol Apartment in the year 2012 and of she and her family having continuously resided there. Consequently, no new fact regarding the said aspect can be said to have been stated by the complainant in her evidence (Exhibit 59).

63. But, with regard to the omission of the word 'cash' and the sentence- 'expensive gifts including all goods as required for a household had been solely spent for the engagement and marriage, (by the complainant's parents) that the complainant had received expensive gifts from her relatives, that even the cash gifts and other gifts were immediately taken into custody by the respondent no.3 for safe custody, but the same were never returned by her to me" as stated by the complainant in her testimonial affidavit (Exh.59) vide para 10, certainly do not find mention in the complaint. Even if that is so, it cannot be ignored that the complainant-after a marriage of almost 20 years prior to the filing of of the D.V. complaint is neither basing her case of domestic violence on the gifts, etc. not having been given to her nor is she seeking their return. The fact of the averments regarding it not having been made in the same manner in the complaint will therefore, not be of any material consequence. Further, the omissions pertaining to the facts mentioned by the complainant in her affidavit by way of examination-in-chief (Exh.59) in para 11 pertain to the complainant's educational qualifications, of she not being allowed to work, of she having been made a Director of the respondent No.1's Company, of not having received any remuneration till April 2008, of the money subsequently received being required to meet her and her children's personal expenses, etc. will be considered while discussing the aspect of the proof regarding her economic abuse.

64. Coming back to the aspect of the physical and emotional abuse suffered by the complainant, the whole of her cross-examination will show that her contentions regarding the same, could not at all, be falsified in any manner. This is because, the facts asserted by the

complainant regarding her physical abuse at the hands of respondent No.1, have only been challenged by way of suggestions, which have been denied by her. The said facts have also been challenged by questioning the complainant about the reason for the trivial fights which used to result in the respondent no.1 assaulting her. Further cross-examination centered around the complainant not having mentioned the specific dates, months and years of the incidents regarding her physical abuse. In this context, it will have to be appreciated that admittedly, the marriage of the parties had taken place on 12.12.1997 while the complaint under the DV Act had come to be filed in the month of February 2018 i.e. after the couple had had a married life of almost more than 20 years. No wife can be expected to remember the exact dates and exact trivial reasons for her husband assaulting her over a long period of time. No other witnesses can also have been expected to be examined by the complainant on the said aspect, as the incidents of assault had almost always occurred within the four walls of the house. In such circumstances, the mere fact of the complainant not being able to recall the reason for the trivial fights between her and respondent No.1, as also the specific dates on which she had been physically assaulted cannot at all be said to be grounds sufficient to challenge her testimony regarding the same.

65. The fact of the complainant not having produced any documents regarding she having been assaulted by the respondent No.1, has also been sought to be brought forth during her cross-examination. It will however have to be appreciated that the complainant has in her testimony (Exh.59), as regards the initial physical abuse only come forth with the contention that, the respondent no.1 - after assaulting her

and dragging her out of his home so as to leave her at her parental home, had then only stated that on her refusal to come out of the car, the respondent no.1 had cooled down and brought her back home. The other incidents of physical assault regarding the complainant having been thrown out of her house by the respondent no.1 when she had refused to cook breakfast as she was running a high fever, had also not resulted in she approaching a doctor or the police. Not only this, but as regards the incidents of assault in the year 2011 - in the course of which the respondent no.1 had pushed the complainant so hard that she had banged against the wall and suffered a bleeding injury on her forehead, had- as per the complainant, resulted in respondent No.1 falsely stating to the Mukund Hospital that she had fallen down and injured herself. Thereafter, the incident in which the respondent no.1 had kicked the complainant resulting in her suffering internal swelling and requiring medical treatment, had resulted in the respondent no.1 compelling her to tell the doctor that her daughter had jumped on her stomach. It is therefore, clear that on both these occasions the true facts of the incidents had been concealed from the hospitals where the complainant had been treated. Further, the said incidents having occurred almost 6-7 years prior to the lodging of the complaint under the DV Act, the complainant could not be expected to have kept the original medical documents regarding the same. Obviously therefore, she cannot be expected to produce on record any documents reflecting the fact of she having been assaulted.

66. It will also have to be kept in mind that the incident dated 25.05.2012 in the course of which the respondent no.1 had again hit the complainant badly, the incident dated 6th or 7th October 2013

where the respondent no.1 had again hit the complainant and injured her eye, of he i.e. the respondent No.1, having continued assaulting her for years together, due to which she continued to suffer tremendous pain and agony which she tolerated only for the sake of her children, are incidents which could not be falsified in any manner during the course of her cross-examination (Exh.59). This would not have been the case if the said incidents would have been a figment of the complainant's imagination.

67. Further, the incident of assault which took place on 13.11.2016 at about 10 p.m. as clearly deposed to by the complainant (Exh.59), in which the respondent no.1 had beaten the complainant and ultimately broken a wooden centre table on her head, finds the necessary support from the reply of the respondents (Exhibit 6). This is because therein though the respondents have blamed the complainant's behaviour for she losing her balance and falling backwards on the centre table which was behind her, which then broke due to her weight, the fact remains that the respondent no.1 has therein admitted the fact of an FIR having been filed against him, of he then having been arrested subsequent to which he came to be released on bail. Hence, even though it is true that as pointed out by Ms. Bedi, the Advocate for the respondents that no documentary evidence pertaining to the incident has been filed on the record, the same in my view, was not essential to prove the said occurrence. This was because, the fact of the said incident having resulted in the respondent no.1 being arrested in a crime registered by the Powai police station against him, after which he came to be released on bail was not disputed at all.

68. If any more support is needed regarding the fact of the complainant being subjected to physical abuse by the respondent no.1, the same can be had from the testimony of applicant's witness no. 3 Kashti Dhami (Exhibit 73). In her testimony, this witness has stated that since 6 years she has been working as a cook at the residence of the complainant in the 'A' wing of Vasukamal building, where she i.e. the complainant resided with her three children, and her mother-in-law. This witness then went on to state that quarrels used to take place between the couple in which the respondent no.1 used to assault the complainant, regarding which she had seen the marks on her body.

69. In the course of her arguments however, Ms.Bedi, the Advocate for the respondent No.1 pointed out that according to the said witness, the quarrels used to be on account of selling the factory. Hence, she has contended that as this witness in her cross-examination, admitted that her working hours used to be from 8 a.m. to 10.30-11 a.m. and then from 4.30 p.m.-7-7.30 p.m. and that she didn't know what was going on between the couple at that time, her testimony cannot be said to be enough to prove the fact of the respondent no.1 assaulting the complainant. But, in my view this argument is based on a convenient misreading of the facts. This is because, though the applicant's witness No.3 Kashti Dhami did certainly state her working hours in the house of the complainant in the morning and evening, as also that she did not know what used to occur between the couple in the said period, she also stated that while doing her work, she used to simultaneously hear the noise of the quarrels. No doubt that this witness in her examination chief stated that the quarrel used to be on account of selling the factory. At the same time, the witness Kashti Dhami (Exhibit 73) could not be

shaken from her testimony about the respondent no.1 assaulting the complainant, which fact was also reiterated by her in her cross-examination. In my opinion, the aforesaid witness having worked as a cook in the house of the complainant and the respondent no.1, she would have certainly seen and heard the quarrels taking place between the couple within the four walls of their home. No doubt that this witness being a cook was confined to the kitchen. This would not have however, prevented her from hearing the quarrels between the complainant and the respondent no.1, as also from seeing the respondent no.1 assault his wife and the marks on the complainant's body. In such circumstances, I have no hesitation in relying upon the testimony of this witness regarding the respondent no.1 quarreling with and assaulting his wife.

70. Even the complainant's witness No.3 Aparna Pawar (Exh.71) - a social worker, who had been approached by the complainant regarding the domestic violence suffered by her at the hands of the respondents, has deposed about the said complainant having narrated her sufferings to her. As has been brought forth in the cross-examination of this witness, she is attached to the Vakola Police Station and had been deputed there by the Women and Child Development Department in Collaboration with the Tata Institute of Social Science, to deal with the applications of domestic violence. Further, Aparna Pawar (Exh.71) deposed about having called the respondent No.1 and about having held a joint meeting with the couple on 16/02/18. Therein, as per this witness (Exh.71), the complainant stated the fact of having been subjected to domestic violence at the hands of the respondent No.1. Though nothing fruitful could result from the said meeting, the fact

remains that it will certainly reflect the fact of the complainant having remained consistent about having suffered domestic violence and of she having explored the relevant avenues to resolve the same.

71. Another fact which will have to be considered is that the respondents did not lead their own evidence or the evidence of any other witnesses on their behalf. This being the situation on the record, it is clear that the contentions of the complainant which have been made under oath and regarding which she has undergone a gruelling cross-examination, inspite of which she remained steadfast on her assertions, will therefore most certainly carry much more weight than the bare pleadings of the respondents regarding the complaint being false.

72. Pertinently, as has been pointed out by Shri Mujumdar, Advocate for the complainant in his written submissions (Exhibit 15), the respondent No.1 has not been able to put forth a probable defense to explain as to why would the complainant-after 20 years of marriage and 3 children, come up with false allegations of cruelty and even approach a court. These facts therefore, in the absence of any contrary evidence being led on the record on behalf of the respondent No.1, incline me to rely upon the evidence of the complainant as also her cook regarding the respondent no.1 physically assaulting the complainant over the years, thereby causing her severe injuries, which in November 2016 had even resulted in him being arrested in a crime registered by the Powai police station for the offences punishable under section 326, 504 of the Indian Penal Code. The same will certainly come within the meaning of the term “domestic violence” in the manner in which it is defined under section 3 of the DV Act. Not only this, but I also have no reason to

disbelieve the fact of the respondent no.1 insulting, humiliating the complainant in the presence of her children and parents-in-law, which will also qualify as 'verbal and emotional abuse'.

73. I shall now turn to the question of whether the complainant has proved the fact of she having been subjected to economic abuse. On this aspect, the complainant has, in her complaint as also her affidavit by way of evidence (Exhibit 59), clearly stated that she was given a fixed amount to run the household as also that the respondent no.1 always asked her to account for the said expenses. Further, she said that he would either beat her or abuse her if he found any difference in the accounts. In the year 2000 the respondent no.1 as per the complainant, formed a Pvt. Ltd. company known as Prima Steels Pvt. Ltd. which was fully owned by him and the complainant. The complainant - as per her testimonial affidavit (Exh.59), was also made one of the directors of the said company but it was the respondent no.1 who used to look after and manage it's affairs. As the complainant remained a housewife, the respondent no.1-according to her, would take her signatures on the documents and papers whenever required.

74. With regard to the monetary benefit to the complainant from the Company, she has stated that the respondent no.1 used to pay her a monthly amount which was initially Rs.60,000 but was gradually increased to Rs.83,000. The savings made from the same by the complainant according to her had then been utilised by the respondents in purchasing flat no. B-103 in Patel Paradise at Kharghar in her name and that of the respondent no.1.

75. Further, in the year 2015, the respondent no.1 - according to the complainant (Exh.59) made her sign some documents after which he sold Prima Steels Pvt. Ltd. without her knowledge, for Rs.7.5 crores. A part of this amount i.e. Rs 1.7 crore-as per the complainant, was used by the respondent no.1 to purchase flat no.1002 in Vasukamal CHS Ltd. In both their names. The remaining money was, per the complainant (Exh.59), invested by the respondent no.1 in another company- Sophus Elevators Pvt. Ltd. Thus, though the complainant - according to her testimony (Exh.59), had a share in the sale proceeds of Prima Steels Pvt. Ltd., the respondent no.1 did not give her any part of the same. She was therefore, - as per her contentions, left with hardly any money in her account.

76. Further, the complainant (Exh.59) has clearly deposed about she having been compelled to sign a gift deed in 2014 for gifting her flat No.1013 in the Patel Paradise building to one Baba Narinder Singh of the Nanded Trust. Not only this but even as regards flat no.1002 Vasukamal building, the complainant (Exh.59) has stated that, though she was receiving half of the rent i.e. Rs.32,500 for some months, the same had stopped on account of the flat being attached by the orders of the Hon'ble Indore High Court. Further, she also stated that she had to borrow money from her brother to return the interest free deposit of the licensees as the respondent no.1, inspite of receiving Rs.1,50,000 from the same in his account had refused to repay the same. This finds the necessary support from the receipt (Exh.62). The other facts as stated by the complainant (Exh.59) will show that since the registration of the FIR against the respondent no.1, in November 2016, he had stopped paying any money towards the household expenses and even for the expenses of their daughter.

77. None of the aforesaid assertions made by the complainant could be effectively falsified in the course of her cross-examination (Exh.59). But, during the same, it was brought forth from her that she had not produced the balance sheet of Sophus Elevators Pvt. Ltd. in order to show that it's turnover was between 20-25 crores. She further admitted that she had not produced any documents to show that Sophus Elevators Pvt. Ltd. was generating income out of the funds received from the sale of Prima Steel Pvt. Ltd.. Not only this, but the complainant also admitted that she had not submitted any document to show that she was entitled to shares in the company along with respondent No.1 and was therefore entitled to receive Rs.50,00,000 per annum from Sophus Elevators Pvt. Ltd. It is therefore, clear that the complainant has not been able to place on record any documents regarding her shareholding in Prima Steels Pvt. Ltd., as also about it having been sold behind her back.

78. Even if this is so, it will have to be appreciated that the defence taken by the respondents regarding the complainant's stand of the aforesaid 2 companies generating substantial income, is quite interesting. This is because at page 9 of their reply (Exhibit 6) it has been stated that the expenses of the family were increasing very fast and therefore, to increase his income the respondent no.1 started a new industrial unit at PPC Industrial Area, MIDC, Rabale, Navi Mumbai. Stating that the complainant was a textile engineer, due to which she selected the unit in which she used to take care of the purchases, human resource, bank transactions, cash receipts and payments while the respondent no.1 used to take care of the sales, it was sought to be portrayed that the complainant had misappropriated the funds of the

said company due to which it had to be sold. No cross-examination of the complainant was undertaken on any of these aspects. There is therefore, no substance in the stand taken by the respondent No.1 in the reply (Exh.6) about the complainant having siphoned off the funds generated by Prima Steel Pvt. Ltd.

79. Further, if the complainant would have actually been an active participant in the workings of the industrial unit at Rabale and dealing with its cash receipts, payments and bank transactions, it would have been quite easy for her to place the necessary documents on the record in order to prove the respondent no.1's financial capacity. The fact that she has not been able to do so will clearly prove that she was made a Director in Prima Steels Pvt. Ltd. only for name-sake purposes and nothing more. This was obviously the reason for the complainant not being aware of the sale of the said company and the actual sale proceeds, till much after it had taken place. Significantly, the respondent No.1 has not led any oral or documentary evidence on the record to prove the actual financial condition of Prima Steels Pvt. Ltd., though he could have easily done so.

80. With regard to Sophus Elevators Pvt. Ltd., it will have to be noted that the complainant not having been made a Director or given any other responsibility in the said Company, she would obviously not be in a position to place on record the documents reflecting its financial status. i.e. of its turnover being 10 crores per annum. But, inspite of being in full control of the company i.e. Sophus Elevators Pvt. Ltd., the respondent no.1 has failed to lead even a shred of evidence to prove its financial status. It is therefore quite apparent that - as argued by Shri

Mujumdar, Advocate for the complainant, an adverse inference will have to be drawn against the respondent no.1 for having failed to produce the best evidence regarding the same on the record. It will consequently, have to be held that the same had not been done as it would have gone against the stand taken by the respondent No.1 about both Prima Steels Pvt. Ltd. And Sophus Elevators Pvt. Ltd. having outstanding dues of crores of rupees towards its creditors and government liabilities.

81. Thus, in my opinion, the unshaken testimony of the complainant (Exhibit 59), has proved that the respondent no.1 had stopped looking after the monthly expenses for running the household after the incident which had occurred in November 2016, causing an FIR to be registered against him. It has also been proved that he had gone to the extent of not even paying his minor daughter's school and tuition fees. The complainant having been forced to gift her flat to one Baba Narinder Singh of the Nanded Trust, the said fact will also prove that she was completely under the thumb of respondent No.1. These facts will therefore, in my view, prove that the complainant had even been subjected to economic abuse by the respondent No.1 in the manner in which it is defined under section 3 of the DV Act.

82. As has already been stated by me, there is no dispute about the complainant having been married to the respondent no.1, of having given birth to 3 children from the said wedlock and having lived with him from 12.12.1997 till some months after November 2016. There is also no dispute about the respondent nos. 2 and 3 being the complainant's parents-in-law, as also about they having lived together

for some time. Thus, the complainant has been proved to be an “aggrieved person” vis a vis the respondent no.1, in the manner in which the said term is defined under section 2(a) of the DV Act. However, though the material on the record as discussed hereinabove has proved that the complainant had been subjected to domestic violence by the respondent no.1, there is in my opinion, no specific evidence with relevant details placed on the record to prove that the respondent nos. 2 and 3 had also subjected the complainant to the same.

83. In the result, I hold that the complainant has only proved that she being the wife of the respondent no.1, had been subjected to domestic violence by him. I therefore, answer point no.1 in similar terms and record my finding thereon accordingly.

As to Point No.2 :

84. I shall now deal with the question as to whether the complainant and her daughter have the right to claim maintenance from the respondent no.1. In her complaint, the complainant - with regard to her qualifications stated that she had studied textile engineering from the Mumbai University. But, in her affidavit by way of evidence (Exhibit 59), she stated that she had studied BHSC (Textile) from the said university. It will however, have to be noted that at no point of time has the complainant said anything about having worked anywhere in any capacity and of thereby having earned a regular income. The only facts stated by her regarding her income, as has been discussed in the discussion regarding Point No.1, is the fact of the respondent no.1 having made her a director in Prima Steels Pvt. Ltd. and of she receiving

a salary which was initially Rs.60,000/- per month, which later on came to be increased to Rs.83,000. Thereafter however, the said income obviously stopped on account of the respondent no.1 having sold off the said company. In the course of her cross-examination, it was brought forth from the complainant (Exh.59) that she is a textile graduate from the SNDT University. She was then asked that, while she had deposed about being a textile graduate, the fact of she having studied textile engineering from Mumbai University had been stated in para 5 of her complaint. To this, the complainant answered that the fact stated in her complaint was a misprint. It was then brought forth from her that she had in her evidence (Exhibit 59) nowhere stated that the words “textile engineering” were a misprint. Some cross-examination was then centered on the aspect of she receiving amounts ranging from Rs.60,000 to Rs.83,000 per month. But the complainant again stated that the last payment was made in 2014.

85. With regard to her capacity to earn, the complainant was asked as to why she could not answer the question regarding the same. To this, the complainant answered that she has always been a housewife and has never earned money due to which she stated the fact of not being able to answer the question regarding her earning capacity. Though a subsequent suggestion was given to her about she having the capacity of earning about Rs.80,000 to Rs.1,00,000 per month, the same was categorically denied by her.

86. In my view, it will have to be noted that the material on record has clearly proved that though the complainant was a graduate at the time of her marriage, she had never utilised her educational

qualifications to work at any point of time. This is because, the evidence on the record clearly proves that she had always been a housewife and had taken care of respondent No.1, her children and in-laws. Even her work as a director in Prima Steels Pvt. Ltd. was limited to the extent of signing documents and nothing more. She has also not been proved to have ever worked subsequent to the sale of Prima Steels Pvt. Ltd. by the respondent no.1.

87. In such circumstances, the complainant not having worked at any place in any capacity since her marriage till the time of filing the complaint under the DV Act, it cannot by any stretch of imagination be said that she has the capacity to earn Rs. 80,000 to Rs.1,00,000 per month. Though the respondent no.1 has in his reply (Exhibit-6) made contentions about the complainant having valuable movable property, and jewellery, he has, as already stated, not placed any oral or documentary evidence on the record to prove the same. The said contention therefore, does not merit any consideration. Even otherwise, having the capacity to earn by itself, cannot result in the rejection of any claim of maintenance by a complainant who is subjected to domestic violence at the hands of her husband. The question of the complainant's minor daughter being in a position to maintain herself, also does not arise. I am therefore, of the clear view that the complainant and her minor daughter are entitled to claim maintenance from the respondent No.1.

88. I will now consider the aspect of the respondent no.1's financial capacity. Though the respondent no.1 has in his reply (Exh.6) contended that he does not earn a substantial income and has to meet

the expenses of paying rent, and has to maintain himself as also fund the higher education of his twin sons due to which he is not left with much, the same have not been able to be proved by leading the appropriate evidence on the record. It is therefore, clear that the said contentions have been made only with a view to deny the claim made by the complainant for herself and on behalf of her minor daughter. Support for this conclusion can also be had from the testimony of witness no.2 Aparna Pawar (Exhibit 71) as examined by the complainant. In her evidence, this witness has stated that on 15.01.2018 the complainant had met her and given her an application regarding the domestic violence suffered by her. This witness then stated that after registering the application, she had called the respondent no.1 by issuing a letter. However, as per this witness, the letter was not served upon him and hence she had contacted him on the phone. Subsequent to this, on 16.02.2018, this witness has stated that she had taken a joint meeting with the complainant and the respondent no.1, in the course of which, discussion had taken place on the issue of the complainant not being given money for her maintenance. It has also come on the record through Aparna Pawar (Exhibit 71) that, while the complainant was asking for Rs.3,00,000 per month for her maintenance and that of her daughter, the respondent no.1 was saying that he could pay Rs.1,50,000 and was ready to bear the household expenses. Nothing much could be brought forth in the cross-examination of this witness to dispute the facts as stated by her. It is therefore quite clear that even in 2018 the respondent no.1 was in the financial position to pay a substantial amount to the complainant for her maintenance.

89. Further, as per the complainant, the respondent no.1 and his father own various immovable properties i.e. 2 flats, a bungalow having

15 bedrooms in Kharghar, Navi Mumbai, 2 row houses in Lonavala, a premises known as Bansal Estate 682 Saki Vihar Road, opposite Chandivali Petrol Pump, Sakinaka, Andheri (E), Mumbai, a factory/premises in Rabale, Navi Mumbai given on lease, etc. These contentions have been reiterated by the complainant in her affidavit by way of evidence (Exh.59). Not only this, but the record before me will show that she has placed and proved on record 2 sale deeds (Exhibit 60 and 61). The record of the trial court will also show that the Advocate for the respondents had given his “no objection” to the exhibition of the said sale deeds due to which they had come to be exhibited on the record in view of the order dated 30.09.2019 by the learned MM below Exhibit 59.

90. Out of the 2 sale deeds the one at Exhibit 60 is a tripartite agreement dated 29.08.2012 between CIDCO, Shri Khatau Maghnani the proprietor of M/s Rajesh Developer-the original licensee and Kulvinder Singh Bansal, Spinder Kaur Bansal and Gurudev Singh Bansal i.e. the present respondents. This agreement records that the original licensee had, by an agreement of lease dated 16.03.2012 between him and CIDCO, paid a premium of Rs.82,00,000 for land bearing plot no.120 admeasuring 120 sq. mts in sector 21, Kharghar, Navi Mumbai. The agreement then states that the original licensee had transferred the land to the new licensees together with its rights, benefits and interests in the same on a transfer fees of Rs.1,02,850. This document will clearly prove that one Shri Khatau Maghnani had purchased the rights of a licensee of plot no.120 in sector 21 in Kharghar, Navi Mumbai by paying a license fees of Rs. 82,00,000. It is therefore quite apparent that the respondent no.1 and his parents would have paid much more than the

said amount to the original licensee for purchasing the land together with all the rights and interest regarding the same.

91. Turning to the other document on record, the same is an agreement of sale dated 13.03.2012 executed between M/s Vintage Enterprises- the developer and Kulvinder Bansal and Jeeanjyot Bansal i.e. the present complainant. The said agreement vide Exhibit 61 states that originally, a lease agreement dated 06.11.2005 had been executed between CIDCO and one Smt. Santosh Rana for Rs.6,27,200 regarding plot 'A in village - Owa, Kharghar in Taluka Panvel District Raigad' subsequent to which developers had been appointed to construct a residential cum commercial building called Patel Paradise on the same. The agreement then records that the complainant and the respondent no.1 had booked flat no. B-103 admeasuring 61.37 sq. mts with terrace for Rs.19,85,000 in the said Patel Paradise. The aforesaid two documents make it quite clear that in the year 2012, the respondent no.1 - as also his parents, had the capacity to pay almost more than 1 crore to purchase land as also a flat. The fact that the respondent no.1 is only claiming that Prima Steels Pvt. Ltd. had gone into losses inspite of which he did not place the relevant documents on the record, though he could have done so, as previously stated, also makes me draw an adverse inference against him, thereby disbelieving him on the said aspect.

92. Much has then been sought to be made by the respondent no.1 and his Advocate regarding no material having been placed on the record by the complainant to prove the annual turn over of Sophus Elevators Pvt. Ltd. Again, it will have to be pointed out that the

company being under the control of the respondent no.1, it was for him to place on record the documents to prove his earnings or the lack of them from the same. Thus, there is no material on the record to prove that the respondent No.1 has huge outstanding liabilities, to the extent of Rs.7 crores, regarding his companies.

93. At the same time, it is difficult for me to accept the argument as advanced in the written submissions (Exhibit 15) by Shri Mujumdar Advocate that the fact of Sophus Elevators Pvt. Ltd. having a turnover of Rs.10 crores annually has been admitted by the respondent no.1 while cross-examining the complainant vide para 94. This is because this argument is based on the contention that the Advocate for the respondent no.1 had questioned the complainant as to whether the said turnover was Rs.10 crores or Rs.22-25 crores as stated by her in her application, to which the complainant had answered that the amount written in her evidence i.e. Rs.10 crores is correct. In my opinion however, the aforesaid cross-examination has only brought on record the fact that as per the complainant the turnover of the said company was Rs.10 crores and nothing more. By no stretch of imagination can the said cross-examination be said to be an admission about the yearly turnover of the company by the respondent no.1.

94. Be that as it may, the fact that the respondent no.1 and his parents had the capacity to spend more than Rs. 1 crore for purchasing land as also a flat in Kharghar in the year 2012 is a clear reflection of their sound financial status as also the fact of they belonging to the class commonly known as “crorepatis”. It is therefore, not difficult to imagine their standard of living at all times. This being so and the complainant

having been subjected to domestic violence at the hands of the respondent no.1, she as also her daughter will be entitled to enjoy the same standard of living as that of the respondents.

95. I shall now determine the actual maintenance which the complainant and her daughter are, in my view, entitled to claim. As has already been stated, the respondent no.1 and his parents could purchase properties worth more than 1 crore in 2012. There being absolutely no material on the record to prove that the financial capacity of the respondent no.1 has decreased in any way, and the properties vide Exhibit 60 now obviously being worth much more than what they were worth in 2012, I am of the view that the complainant has been able to make out a case for being granted maintenance at the rate of Rs.1,50,000 per month for herself. As regards the complainant's daughter, she having been a school-going child in 2018, studying in an international school would also on account of her other classes and extracurricular activities, be requiring a substantial sum. Thus, keeping in mind the status of the respondent no.1, his daughter can, in my view, be said to be entitled to a maintenance of Rs.1,00,000 per month. Obviously, the said amounts will be payable from the date of the filing of the application. In the result, I answer point no.2 in similar terms and record my finding thereon accordingly.

As to Point No.3 :

96. In the impugned judgment, the learned Trial court has granted maintenance to the complainant's minor daughter till she attains the age of 18 years. But, Shri Mujumdar Advocate has, in the course of his argument, contended that she should have been granted maintenance

till the age of 21 years. This contention has been reiterated in the written submissions (Exh.15) submitted by the complainant's Advocate. Obviously, Ms. Saveena Bedi the Advocate for the respondent No.1 has opposed the said argument.

97. In support of his arguments, Shri Mujumdar Advocate has stated that a conjoint reading of sections 2 (a) and 2 (f) of the D.V. Act shows that a daughter who is living with her mother in a domestic relationship is entitled to seek monetary reliefs irrespective of the fact that she is a minor or a major. It has also been contended that there are various case laws of the Hon'ble Apex Court wherein it has been held that there is no bar to grant maintenance to an unmarried major daughter.

98. It will have to be noted that Section 2 (a) of the D.V. Act defines the term "aggrieved person" as any woman who is, or has been, in a domestic relationship with the respondent and who alleges to have been subjected to any act of domestic violence by the respondent. Further, section 2 (f) of the D.V. Act defines the term "domestic relationship" as a relationship between two persons who live or 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.

99. It will however, have to be noted that the word "woman" as used in the term "aggrieved person" under section 2 (a) of the D.V. Act, has not been separately defined under the said Act. It will therefore, be beneficial to turn to the Code of Criminal Procedure to see as to whether the said term has been defined therein. But, the said term has

not been defined therein. Hence, in my opinion, it will be beneficial to turn to the Statement of Objects and Reasons of the D.V. Act to see the reason for the statute coming into existence. A perusal of the same will show that the prevalence of domestic violence, of it- prior to the enactment of the D.V. Act, being able to be addressed only under section 498-A of the Indian Penal Code, and of there not being any remedy under the civil law to protect a woman from domestic violence, was the reason that the D.V. Act came into being.

100. Further, the manner in which the expression-”domestic violence” is defined i.e. abuse or threat of abuse that is physical, sexual, verbal, emotional or economic, also merits consideration. The reliefs pertaining to the rights of women regarding residence orders pertaining to her matrimonial home or shared household whether or not she has any title in the same, protection orders, etc. in my opinion, show that principally the D. V. Act was brought on the statute book to address the grievances of a woman who either has a martial tie, relationship in the nature of marriage or a live-in-relationship with the respondent, and even sisters, widows, mothers, single women. The fact that section 21 of the D.V. Act provides for the passing of custody orders regarding any child or children to the “aggrieved person” in my view, will also substantiate the fact of the said term being applicable only to a major woman.

101. While Shri Mujumdar the Advocate for the complainant has not placed on the record any judgment of the Hon’ble Supreme Court regarding a daughter-though a major, having a right to claim maintenance under the D.V. Act, even I have yet to come across any such specific judgment. Not only this , but in **Abhilasha V. Prakash, 2020**

SCC Online SC 736, the Hon'ble Supreme Court observed that though a Family Court is entitled to grant maintenance to a major unmarried girl by combining the liabilities under section 125 of the Cr.P.C. and section 20 (3) of the Hindu Adoption and Maintenance Act, 1956, a Magistrate exercising powers under section 125 of the Cr.P.C. is not authorized to do so.

102. Further, the Hon'ble Karnataka High Court in **Sri G. Kalasegowda V. Smt. N. K . Nethravathi - the Cr. Rev. Petition No.795/15 dated 23/8/23** has held that under the D.V Act, an unmarried major daughter is not entitled for maintenance; as she can claim the same under the Hindu Adoptions and Maintenance Act.

103. Hence, in view of the aforesaid discussion, I am of the view that the complainant's daughter had rightly been granted the maintenance only till she turned eighteen. I therefore, answer Point No.3 in the negative and record my finding thereon accordingly.

As to Point No.4 :

104. With regard to the relief pertaining to the shared household, the impugned judgment dated 18/02/20 in C.C. No.32/DV/2018 will show that therein the respondents have been restrained from dispossessing the aggrieved person i.e. the complainant and her daughter from the shared household i.e. flat No.1003 A, Vasukamal, Opp. Hotel Gurukrupa, Saki Vihar Road, Sakinaka, Andheri (E), Mumbai-72. In the appeal as filed by the complainant, she has contended that respondent No.1 and her in-laws have a history of disposing off immovable properties belonging to them as also of forcing her to gift the flat in

Patel Paradise-owned by her and respondent No.1 to one Baba Narinder Singh. Referring to the fact of Prima Steels Pvt. Ltd.- in which she had a share, having been sold, it has been argued that the respondents may very well do the same even as regards the house in which she and her daughter have been given a right to reside.

105. In his appeal however, the husband has contended that the said flat is not owned by him but by his parents i.e. the respondent Nos.2 and 3. Hence, according to him, the learned Trial Court has erred in declaring the said property as a “shared household” and in restraining the respondents from dispossessing the complainant and her daughter from the same.

106. A perusal of the impugned judgment will show that therein it had been noted that though the aggrieved person was not the owner of Flat No.1003-A in Vasukamal building, she had been residing there along with her children and the respondent Nos.1 and 3. No contrary evidence was led by the respondents to challenge the said assertion. It also cannot be ignored that the Hon’ble Supreme Court in **Satish Chander Ahuja V. Sneha Ahuja AIR ONLINE 2020 SC 784** has held that in the event that the shared household belongs to any relative of the husband with whom the woman has lived in a domestic relationship, then the said household will become a shared household. Thus, the complainant having lived in the flat in question with respondent No.1 and for some time even with her mother-in-law, the same can certainly be held to be the ‘shared household’ in which the complainant and her daughter having resided since many years, will continue to have a right to reside.

107. Not only this, but though I have in my finding as to Point No.1 held that the complainant has not been able to prove that the respondent Nos.2 and 3 had subjected her to domestic violence, the fact remains that they had never stopped their son from mistreating his wife. As the respondent No.1 is their only son, he can very well influence them to sell the flat in question so as to give a go-bye to the residence order in the favour of his wife. It will also have to be kept in mind that the respondent Nos.2 and 3 are no longer residing in the “shared household” and have been residing in other properties owned by them. Hence, I am of the view that together with restraining the respondents from dispossessing the complainant from the shared household, they also need to be restrained from alienating the same in any way. I answer Point No.4 in similar terms and record my finding thereon accordingly.

As to Point No.5 :

108. With regard to the question of compensation, it will have to be noted that the learned Trial Court has granted a sum of Rs.5 lakhs to the complainant under the said head. Obviously, while the complainant wife is claiming that the said amount is too less, the respondent No.1 is contending that she is not entitled to any amount of money as compensation. This is because, according to him, he was at the receiving end of the complainant’s behaviour and also because his financial situation has now become precarious. The fact of the respondent No.1 having to pay the rent for the premises occupied by him and his twin sons and of he having to take care of their educational and living expenses, leaving him with nothing has also been emphasized by his Advocate.

109. Here, it is necessary to point out that I have, in my finding as to Point No.1, already held that the complainant had been subjected to domestic violence by the respondent No.1. Further, in my discussion as to Point No.2, I have also pointed out that in the year 2012, the respondent Nos.1 and 2 had the financial capacity to purchase land as also a flat worth more than 1 crore. Not only this, but therein the fact of the respondent No.1 not having come forth with the best evidence pertaining to his finances, and of an adverse inference being therefore, required to be drawn against him has also been noted. It is therefore, clear that the respondent No.1 has not been able to prove the fact of he being in dire straits, financially. On the other hand, the material on the record reflects that he and his family are what in common parlance is called “crorepatis”.

110. In the course of his arguments, Shri Majumdar Advocate for the complainant has placed reliance upon a judgment of the Hon’ble Bombay High Court in **Kaushal Arvind Thakker V. Jyoti Kaushal Thakker and Another, 2024 BHC-AS 14279**. Therein, after keeping in mind the earnings of both the parties, the Hon’ble High Court held that the wife is also entitled to the same standard of living as enjoyed by the husband. Further, as regards the compensation, it was pointed out that it is to be granted as a recompense not only for the physical injuries, but also for mental torture and emotional distress.

111. Keeping the aforesaid in mind, it will have to be noted that the facts of the matter as proved on the record will show that after suffering domestic violence in the nature of beatings, severe assaults, taunts and even financial deprivation in a marriage of almost 20 years, the

complainant was forced to approach the court for seeking maintenance, etc. as the last resort. The physical and mental torture as also the sustained emotional distress felt by the complainant while living with the respondent No.1 can therefore, scarcely be imagined.

112. Consequently, the respondent No.1 being extremely rich, the grant of compensation of Rs.5 lakhs to the complainant by the learned Metropolitan Magistrate is too meagre an amount. The same therefore, requires a very substantial enhancement so as to actually compensate the complainant for the 20 years of torture, humiliation, economic abuse, taunts, etc. undergone by her at the hands of the respondent No.1. The fact that the complainant has to now also suffer being estranged from her two sons, as the respondent No.1 appears to have influenced them against their mother, is also something which cannot be ignored. The respondent No.1 - though he has tried his level best to show that he is not in a good financial situation, has not been successful in proving the said contention. On the other hand, he being in a position to purchase properties worth Rs.1 crore in 2012, and presently running an elevator company, will surely be rolling in money.

113. Hence, balancing the scale, I am of the view that the compensation as granted to the complainant wife needs to be enhanced to Rs.1 crore. The complainant is also entitled to a protection order as against the respondent No.1. Not only this, but she is also entitled to a residence order against all the respondents. I answer Point No.5 in similar terms and record my finding thereon accordingly.

As to Point No.6 :

114. In view of my finding as to Point Nos.1 to 5, I proceed to pass the following order :

O R D E R

1. The Criminal Appeal no.16/2021 Jeevanjyot Kaur Bansal v/s a. Kulvinder Singh Bansal, b.Gurdev Singh Bansal and c. Spinder Kaur Bansal stands partly allowed with costs. The maintenance granted to the complainant by the ld. Metropolitan Magistrate in C.C. no.32/DV/2018 by it's judgment dated 18-02-2020 is enhanced from Rs.1 lac to Rs.1,50,000/- p.m. from the date of the application filed under the Protection of Women from Domestic Violence Act, 2005. The maintenance as granted to the complainant & her daughter is maintained. The order of the ld. M.M. granting the same till she attains the age of 18 years is also maintained.
2. The compensation as granted to the complainant by the ld. M.M. of Rs.5 lacs is enhanced to Rs.1 crore.
3. The respondents are hereby restrained from dispossessing the complainant and her daughter from the shared household i.e. flat no.1003/A, Vasukamal Building, Opposite Hotel Gurukripa, Saki-Vihar road, Sakinaka, Andheri(East), Mumbai-72 as also from alienating the same.
4. The order of the ld. M.M. restraining the respondent no.1 from committing domestic violence against the aggrieved person and her daughter is maintained.

5. The Criminal Appeal no.44/2021 Kulvinder Singh Bansal v/s a. Jeevanjyot Kaur Bansal, b.Gurdev Singh Bansal and c. Spinder Kaur Bansal stands dismissed. The appellant shall pay the costs to the respondent.

Date : 05.05.2025

(S. J. Ansari)
Additional Sessions Judge,
Sessions Court, Borivali Division,
Dindoshi, Goregaon, Mumbai

Dictated on : 05/05/2025
Transcribed on : 30/05/2025
Corrected on : 30/05/2025
Signed on : 30/05/2025
Sent to Dept. on :

“CERTIFIED TO BE TRUE AND CORRECT COPY OF THE ORIGINAL SIGNED JUDGMENT/ORDER.”

UPLOAD DATE

AND TIME : 30/05/25 at 4.12 p.m.

Mrs. Vidya Pendharkar

NAME OF STENOGRAPHER

Name of the Judge (with Court Room No.)	HHJ Ms. S. J. Ansari (Court Room No.11)
Date of Pronouncement of Judgment/Order	05/05/2025
Judgment/Order signed by P.O. on	30/05/2025
Judgment/Order uploaded on	30/05/2025