



IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 816 OF 2025  
WITH  
CRIMINAL APPLICATION NO. 3824 OF 2025

1. Nikhil Rajendra More  
Age: 37 years, Occu.: Business,  
R/o Mahesh Building, Near Wale English School,  
Sambhaji Nagar, Khadgaon Road, Latur
2. Rajendra Keshavrao More  
Age: 63 years, Occu.: Business & Agri.
3. Sarojini Rajendra More  
Age: 61 years, Occu.: Household,  
2 & 3 R/o Laxmi Kuber Niwas,  
Near Maharashtra Housing Society,  
Behind Ashwamedh Hotel, Subash Nagar,  
Barshi Road, Latur

..PETITIONERS

VERSUS

Vishakha Nikhil More  
Age: 28 years, Occu.: Education,  
R/o c/o Kamlakar Shelke,  
Post Borda, Tq. Kalamb, Dist. Osmanabad  
(As per Petition R/o Ashok Madhukar Shelke,  
Gut No.181, Plot No.542, Group Saint CIDCO,  
Waluj, Tisgaon, Chhatrapati Sambhajanagar)

..RESPONDENT

....

Mr. R. S. Deshmukkh, Senior Counsel a/w. Mr. Nilanjam Pande i/b. Mr. Rahul Joshi and Mr. Wakale Raviraj Tukaram, Advocate for the Petitioners.  
Mr. S. B. Solanke, Advocate for Respondent.

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CORAM : ABHAY J. MANTRI, J.  
RESERVED ON : 11<sup>th</sup> NOVEMBER, 2025  
PRONOUNCED ON : 9<sup>th</sup> JANUARY, 2026

**JUDGMENT :**

1. Heard. **Rule.** Rule is made returnable forthwith and heard finally, with the consent of the respective parties, at the admission stage.

2. The petitioners assail the judgment and order dated 07<sup>th</sup> May, 2025, passed by the learned Additional Sessions Judge, Chhatrapati Sambhajinagar (for short, “**learned Additional Sessions Judge**”) in PWDVA Appeal No. 30 of 2025, whereby dismissed the appeal and confirmed the order dated 28<sup>th</sup> January, 2025, passed by the learned Judicial Magistrate First Class, Chhatrapati Sambhajinagar (for short, “**learned Magistrate**”) in PWDVA No. 85 of 2024, below Exh.6, whereby rejected the application filed by the petitioners, raising an objection that the learned Magistrate at Chhatrapati Sambhajinagar has no jurisdiction to try and entertain the application under the provisions of Protection of Women from Domestic Violence Act, 2005 (for short, ‘**D.V Act**’), and held that the learned Magistrate has jurisdiction to try, entertain and decide the application.

**Factual Matrix :-**

3. On 29<sup>th</sup> November, 2022, Petitioner No.1 married the respondent. Until December 2022, the respondent resided with Petitioner No. 1 at her matrimonial house in Latur. On 27<sup>th</sup> March, 2023, she filed a complaint with the Women Grievance Redressal Cell, Latur, against the petitioners for ill-treating her. Then, on 13<sup>th</sup> April, 2023, she lodged an F.I.R. at the MIDC

Police Station, Latur, against the petitioners. Thereafter, on 20<sup>th</sup> February, 2024, she filed a complaint before the learned Magistrate at Chhatrapati Sambhajnagar, contending that she is temporarily residing at the house of her cousin-uncle at Chhatrapati Sambhajnagar for further education; therefore, the learned Magistrate has jurisdiction to try, entertain, and decide the application.

4. Pursuant to the summons, the petitioners appear before the learned Magistrate and filed an application contending that the respondent has not filed any document to show that she is residing within the jurisdiction of the learned Magistrate. She has deliberately omitted to state in the complaint that the education she is pursuing and the times and places at which she took admission, thereby suppressing this information. She has not produced any document before the Court to show that she is pursuing education. Therefore, it was contended that the respondent does not reside within the jurisdiction of the learned Magistrate. Thus, the learned Magistrate has no jurisdiction to try and entertain the application. Hence, they urged that the respondent's application be dismissed on the ground that the learned Magistrate lacks jurisdiction.

5. After considering the material on record, the learned Magistrate rejected the application filed by the petitioners, holding that, as per Section 27 of the D.V. Act, the Court has jurisdiction to try and entertain the

application as the respondent is temporarily residing at Chhatrapati Sambhajinagar. Feeling aggrieved by the said order, the petitioners preferred the appeal, PWDVA Appeal No. 30 of 2025, before the learned Sessions Court, which, after hearing the parties, dismissed the appeal, holding that the order passed by the learned Magistrate is just and proper and therefore, the application filed by the respondent is tenable before the learned Magistrate. Hence, the petitioners have preferred this petition.

6. Mr. Deshmukh, learned senior counsel for the petitioners, vehemently contended that the learned Magistrate as well as the learned Additional Sessions Judge have not taken into consideration that the marriage of Petitioner No.1 and the respondent was solemnized on 29<sup>th</sup> November, 2022, at Latur. After the marriage, the respondent resided with Petitioner No. 1 in Latur, and after leaving his company, she lived with her parents in the village of Borda, Tq. Kalamb, Dist. Dharashiv, and not at Chhatrapati Sambhajinagar; therefore, filing the complaint at Chhatrapati Sambhajinagar is nothing but an abuse of the process of law to harass the petitioners, as she is not residing at Chhatrapati Sambhajinagar.

7. He further drew my attention to her Aadhar card, wherein her address is mentioned as Kalamb. He also pointed out the application filed with the Women Grievance Redressal Cell, Latur, on 27th March, 2023, and the F.I.R. lodged by the respondent at the MIDC Police Station, Latur, on 13th

April, 2023, wherein her address is shown as Latur and her parents' address is shown as Kalamb. Similarly, he has pointed out the medico-legal examination report dated 14<sup>th</sup> April, 2023, wherein her address is shown as Latur. Likewise, he has drawn my attention to the notice issued under PWDVA Appeal NO. 30 of 2025 and its report, wherein the respondent's address was recorded as Kalamb. The report indicates that the said notice was served on the respondent at her paternal house at Borda, Tq. Kalamb, when she had gone to her friend's house. Therefore, her father accepted the said notice on her behalf on 15<sup>th</sup> April, 2025. Also, the notice of this writ petition was served on her at her address in Borda, Tq. Kalamb; therefore, it is contended that although she has shown her residence at Chhatrapati Sambhajnagar, she was residing at Kalamb taluka with her parents only. As such, he urged that it is crystal clear that the respondent is neither permanently nor temporarily residing at Chhatrapati Sambhajnagar, but she resides only at Borda Tq. Kalamb. However, the learned Magistrate, as well as the Additional Sessions Judge, have not taken into consideration the said fact and erred in observing that the learned Magistrate has jurisdiction to try and entertain the application.

8. He further propounded that the learned Magistrate, as well as the Additional Sessions Judge, have not construed the meaning of '*temporary residence*' in its true spirit, but by relying on the mere averment in paragraph no.1 of the application, have erred in holding that the learned Magistrate has

jurisdiction to try and entertain the application. In fact, the respondent has not filed any documentary evidence in support of her contention, nor has she prima facie demonstrated that she resides at Chhatrapati Sambhajinagar, despite the petitioners raising the objection by filing the application. Likewise, she has not produced any documentary evidence to show that she is temporarily residing at Chhatrapati Sambhajinagar. On the contrary, the service report of the notices of the Sessions Court, as well as this Court, indicate that she was residing at Borda, Tq. Kalamb, and therefore, notices were served at her address, Borda, Tq. Kalamb only. Thus, both the Courts below erred in holding that the learned Magistrate has jurisdiction to try and entertain the application.

9. During the argument, learned senior counsel has taken me through Section 27 of the D.V. Act and canvassed that the meaning of '*temporary residence*' embodied therein was not considered by both the Courts below in its true spirit and that they mechanically rejected the objection on the vague contention of the respondent in paragraph no.1 of the application that she is 'temporarily residing' at Chhatrapati Sambhajinagar. Accordingly, he urged that the petition be allowed.

10. *Per contra*, Mr. Solanke, learned counsel for the respondent, strenuously opposed the petition and argued that in paragraph no.1 of the original application, the respondent has categorically stated that for the

purpose of further education, she is residing at her uncle's house. Therefore, the learned Magistrate, as well as the Additional Sessions Judge, has rightly held that the learned Magistrate has jurisdiction to try and entertain the application. Thus, no interference is required in the impugned orders. He further submitted that the provisions of Section 27 of the D.V. Act are squarely applicable irrespective of the cause of action, as there is no direct nexus or relation with the place where the alleged domestic violence was actually caused and the place of her residence at the time of filing of the complaint, if clauses (a) and (b) of sub-section (1) of Section 27 of the D.V. Act are read, which indicates that the Court where the respondent is '*temporarily residing*' has jurisdiction to try and entertain the application.

11. To buttress his submission, he has relied on the following judgments:-

1. *Abhishek Jain and Ors. Vs. Ruchi Jain and Ors. 2023 ALL MR(Cri) 2342*
2. *Sumeet Suresh Ninave Vs. Himani Sumeet Ninave Nee Himani d/o Rajendra Patre, Criminal Application (APL) No. 1576 of 2022 (Nagpur Bench)*
3. *Rohit Shanker Ojha Vs. Meera Rohit Ojha and Ors. 2020 All MR(Cri) 2299*
4. *Rajendra and Ors. Vs. Sapna MANU/MH/2623/2022*
5. *Rabindra Nath Sahu and Anr. Vs. Smt. Susila Sahu, 2016 Cri.LJ 4931*
6. *Puneet Arora Vs. Kanika Khera and Ors. W.P.(CRL) 47 OF 2025 of the Delhi High Court*
7. *Ram Lakhani Singh Vs. Union of India and Anr. W.P.(C) 7818 OF 2008*

12. As such, he contended that in view of the mandate laid down in the above-cited judgments, it can be said that Section 27 of the D.V. Act makes it explicit that the jurisdiction of the Magistrate is not confined to the

situs of the cause of action, which is the incidence of domestic violence. Still, there are three independent and disjunctive bases to file the application, (i) the place where the aggrieved person *resides* permanently or *temporarily*, carries on business or is employed; (ii) the place where the respondent *resides*, carries on business, or is employed; and (iii) the place where the cause of action arises; are relevant for considering the issue of jurisdiction, and therefore, the learned Magistrate as well as the Additional Sessions Judge have rightly held that the learned Magistrate has jurisdiction to try and entertain the application, and therefore, no interference is required in these orders in writ jurisdiction. As such, he urged that the petition be dismissed.

13. Having heard the rival contentions of the parties and having gone through the record, at the outset, the short but crucial questions that arise before the Court are -

- (I) *Whether the term ‘temporarily resides’ can include a casual stay at a particular place for a temporary purpose, with no intention of staying, is covered by the words ‘resides’, or for the purpose of filing a domestic violence case, showing the place of residence as a temporary residence?*
- (II) *Whether the learned Magistrate has jurisdiction to try and entertain the application or not?*
- (III) *Whether any interference is required in the impugned judgment and order?*

14. While dealing with the above points and submissions of learned counsel for the parties, I would like to reproduce *paragraph no.6* of the

judgment in *Jagir Kaur and Anr. Vs. Jaswant Singh, AIR 1963 SC 1521*, wherein the three Judge Bench of the Hon'ble Apex Court has dealt with the word, 'resides' and explained it in the said paragraph, which reads thus :-

*“6. The first word is "resides". A wife can file a petition against her husband for maintenance in a Court in the District where he resides. The said word has been subject to conflicting judicial opinion. In the Oxford Dictionary, it is defined as: "dwell permanently or for a considerable time; to have one's settled or usual abode; to live in or at a particular place". The said meaning, therefore, takes in both a permanent dwelling as well as temporary living in a place. It is, therefore, capable of different meanings, including domicile in the strictest and the most technical sense and a temporary residence. Whichever meaning is given to it, one thing is obvious, and it is that it does not include a casual stay in, or a flying visit to, a particular place. In short, the meaning of the word would, in the ultimate analysis, depend upon the context and the purpose of a particular statute. In this case, the context and purpose of the present statute certainly do not compel the importation of the concept of domicile in its technical sense. The purpose of the statute would be better served if the word "resides" was understood to include temporary residence. The juxtaposition of the words "is" and "last resided" in the sub-section also throws light on the meaning of the word "resides". The word "is", as we shall explain later, confers jurisdiction on a Court on the basis of a casual visit and the expression "last resided", about which also we have something to say, indicates that the Legislature could not have intended to use the word "resides" in the technical sense of domicile. The word "resides" cannot be given a meaning different from the word "resided" in the expression "last resided", and, therefore, the wider meaning fits in the setting in which the word "resides" appears. A few of the decisions cited at the Bar may be useful in this context.”*

15. In the above paragraph, the Hon'ble Apex Court has taken into consideration the Oxford dictionary meaning of the word 'reside' as *“dwell permanently or for a considerable time; to have one's settled or usual abode; to live in or at a particular place”*. The said meaning, therefore, can be taken as both the

terms, i.e. '*permanent residence*' or '*temporary residence*' in a place. It also does not include a casual stay or a flying visit to a particular place. *The mere casual residence in a place for a temporary purpose with no intention of remaining was not covered by the word 'resides'*.

16. Thus, it reveals that the sole test on the question of residence was *whether the party had animus manendi or an intention to stay for an infinite period, at one place and if he had such an intention, then alone could he be said to reside there.* There is also a broad consensus that it means more than a flying visit or a casual stay in a particular place. Similarly, if a person has a permanent residence elsewhere, he has a clear intention or animus manendi to make one place his permanent residence, where he has gone for medical relief, and the other his place of study; his temporary abode or residence.

17. Similarly, I would like to reproduce **Section 27** of the D.V. Act as under :-

*“27. Jurisdiction. -*

- (1) The Court of Judicial Magistrate of the first class or the Metropolitan Magistrate, as the case may be, within the local limits of which -*
- (a) the person aggrieved permanently or temporarily resides or carries on business or is employed; or*
  - (b) the respondent resides or carries on business or is employed; or*
  - (c) the cause of action has arisen, shall be the competent Court to grant a protection order and other orders under this Act and to try offences under this Act.*
- (2) Any order made under this Act shall be enforceable throughout India.”*

18. A bare perusal of the above provision would reveal that the Judicial Magistrate First Class, within whose local limits the person aggrieved resides, permanently or temporarily, or carries on business or is employed, or the cause of action arises, shall be the competent Court to try and entertain the application under the provisions of the D.V. Act.

19. The word 'resides' in clause (a) of Section 27 of the D.V. Act implies something more than a flying visit to or a casual stay in a particular place, but some concrete intention to stay at a place for a considerable period and not merely to pay it a casual or flying visit. The question of residence is required to be decided as to whether the party had *animus manendi*, permanent or temporary, as an intention to stay at a particular place, then alone could it be said that the party is residing at a particular place, either permanently or temporarily. The question as to whether the aggrieved person has made a particular place an abode, permanent or temporary, is a question to be decided with reference to the facts of each case. A mere casual residence at a place for a temporary purpose, with no intention of remaining, was not covered by the word 'resides'.

20. Thus, the sole test on the question of residence was whether a party had *animus manendi*, or an intention to stay for an indefinite period, at one place; and if he had such an intention, then alone could he be said to "reside" there. It is the requirement of Section 27 of the D.V. Act that, in

order to confer territorial jurisdiction upon a Judicial Magistrate First Class, there has to be at least a temporary residence within the territorial jurisdiction of the Court.

21. No doubt, the provisions of the D.V. Act are a welfare legislation designed to provide a broad range of remedies to an aggrieved woman. The statutory scheme is not limited to punitive measures; it encompasses a range of civil remedies intended to secure the aggrieved person's safety, dignity, and well-being. These include, *inter alia*, the right of a wife as enumerated under Sections 17 to 23 of the D.V. Act. Similarly, if we look at the objectives and reasons of the D.V. Act, it states that domestic violence is undoubtedly a human rights issue and a serious deterrent to development. The Vienna Accord of 1994, the Beijing Declaration, and the Platform for Action (1995) have acknowledged this. As criminal law does not, however, address this phenomenon in its entirety, the D.V. Act has been enacted to deal with it. Section 2 of the Act provides the definitions. According to **Section 2(a)** of the Act, “**aggrieved person**” means 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. Section 2(a) of the Act clearly demonstrates that the Act purports to take care of the grievances of women exclusively. Therefore, when dealing with the provisions of the D.V. Act, it is necessary to note that the D.V. Act does not provide punishment to

offenders; it is a remedial statute, designed to protect the welfare of beneficiaries of social justice. Under the said Act, new remedies are provided to women, along with extensive rights, and they are simultaneously permitted to pursue other remedies available under the Law. *The whole purport of the Act is to safeguard women from gender based violence.* Undoubtedly, the D.V. Act was enacted for the welfare of women and to protect their extensive rights.

22. Let us now apply the principle laid down in the case of *Jagir Kaur* (supra) and the mandate laid down *under Section 27 of the D.V. Act* to the present case. To recapitulate the relevant facts, I would like to reproduce paragraphs nos. 1 and 11 of the original application as under :-

1. असे की, अर्जदाराचा गैरअर्जदारासोबत कं. 1 दिनांक 29/11/2022 रोजी विवाह झाला असून उपयुक्तांचे आजही पती-पत्नी म्हणून नातेसंबंध कायम आहे. वैवाहिक जीवनातील अशा कटू प्रसंगाला सामोरे जाण्यासाठी अर्जदार या तयार नव्हत्या. अर्जदार यांचे वडील नोकरी निमित्त बाहेरगाही असल्यामुळे सतत बाहेरगावी असतात. या अशा वातावरणातून बाहेर येण्यासाठी म्हणून तसेच पुढील शैक्षणिक शिक्षण पूर्ण करण्याच्या हेतूने अर्जदार या औरंगाबाद येथील त्यांचे चुलते यांच्याकडे राहण्यास आलेले आहेत त्यामुळे या न्यायालयाच्या न्यायालयीन कक्षमध्ये त्या असल्याकारणाने या न्यायालयात प्रकरण दाखल केले त्याकरिता सोबत लाईट बिल जोडले आहे.
11. असे की, अर्जदार ही मा. न्यायालयाच्या कार्यक्षेत्रात राहत असल्याने सदरील प्रकरण हे मा. न्यायालयास चालविण्यास व न्यायनिर्णय देण्याचा पूर्ण अधिकार आहे. तसेच सदरील अर्जातील बदल, दुरुस्ती, वाढ, गरज पडल्यास इतर पुरावे दाखल करण्याचा अधिकार अर्जदार ही मा. न्यायालयाच्या परवानगीने राखून ठेवीत आहे.

23. A bare perusal of the above averments, it emerges that the respondent, i.e. the original applicant, has contended that for the purpose of further education, she had been to Chhatrapati Sambhajnagar to reside at her cousin-uncle's house. Therefore, the learned Magistrate has territorial jurisdiction to entertain the application. Along with the application, she has annexed only a copy of the electricity bill for her cousin-uncle's house. It is pertinent to note that it is a categorical case of the respondent that, for the purpose of further education, she had been to Chhatrapati Sambhajnagar. In such an eventuality, indeed, she would have to state in which class, branch or college she had taken admission. But she did not mention anything about the same nor produced any document to demonstrate that, for the purpose of further education, she had been to Chhatrapati Sambhajnagar or stayed at Chhatrapati Sambhajnagar. When undisputedly the notices/summons of the revision proceeding filed before the Sessions Court and this court, in writ petition, have been served on the respondent at her address shown at village Borda, Tq. Kalamb, at her parents' house, and the bailiff's report indicates that the respondent went to meet her friend; therefore, her father accepted service of notice on her behalf. Similarly, the notice of this Court was also served on her at village Borda, Tq. Kalamb, which was accepted by her mother, Vidya. The notice of this Court was served on 14<sup>th</sup> July, 2025, and the Sessions Court's notice was served on 15<sup>th</sup> April, 2025. It is to be noted that neither the respondent's father nor her mother stated to the bailiff or the

relevant police officer that the respondent is not residing there and that she resides at Chhatrapati Sambhajnagar; however, they accepted the notice on her behalf. Therefore, inference can be drawn that at that time the respondent was living with them, and consequently, they have accepted the said notices. Indeed, the said notices were served after the respondent filed the application with the learned Magistrate. Thus, it cannot be said that, after filing the application, she resided only at Chhatrapati Sambhajnagar.

24. However, the averments in the application are vague, as they state only that, for educational purposes, she had been to Chhatrapati Sambhajnagar. She has not said the name of the college in which she is pursuing her education, nor the class or branch in which she was enrolled. She has not produced any document in proof thereof.

25. On 06<sup>th</sup> November, 2025, after hearing the learned counsel for the parties, a query was put to learned counsel for the respondent as to how the Court at Chhatrapati Sambhajnagar has jurisdiction to entertain the application filed under Section 12 of the D.V. Act. He pointed out Section 27 of the D.V. Act. Still, he failed to demonstrate from the documents produced before the learned Magistrate how the learned Magistrate had jurisdiction, as admittedly no cause of action arose within the learned Magistrate's jurisdiction, nor did the respondent permanently reside at Chhatrapati Sambhajnagar. The learned senior counsel for the petitioners argued that, in

view of the respondent's contention regarding educational purposes, she had visited Chhatrapati Sambhajnagar; therefore, the respondent was directed to produce the documents in that regard before the Court. In response, the respondent produced only a copy of the hall ticket of the MPSC examination on record, (marked as 'X' for identification purposes) wherein the date of examination was shown as 28<sup>th</sup> June, 2025, i.e., one and a half years later than the complaint filed (*12<sup>th</sup> February, 2024*) by the respondent before the learned Magistrate.

26. Moreover, except for that, she has failed to produce any document before this Court in support of her contentions that, for the purpose of further education, she had been to Chhatrapati Sambhajnagar at her cousin uncle's house. Even assuming that she produced the said hall ticket, it appears that it is for the examination centre at Chhatrapati Sambhajnagar and that the date is 28<sup>th</sup> June, 2025. A judicial note can be taken that, in the Marathwada region, there is only one centre for the MPSC examination, i.e., at Chhatrapati Sambhajnagar, and Borda, Tq. Kalamb is located within the Marathwada region; therefore, in my view, this document is not helpful to her in demonstrating that, for the purpose of further education, she resides in Chhatrapati Sambhajnagar. Had it been the case that, in pursuing the M.P.S.C. examination, she had been to Chhatrapati Sambhajnagar, she would indeed have stated the same in her application and would certainly have

produced documents to demonstrate that she had taken admission in any coaching classes for that purpose. Still, her application appears vague, stating that for further educational purposes only; therefore, the said averment leads to the drawing of an adverse inference against her contention.

27. In addition, despite this Court has directed to produce the document showing where she has taken her admission or what is the material to denote that she had taken the admission to any course in the college at Chhatrapati Sambhajnagar, so that she has to reside here temporarily, but she failed to produce a single document before this Court also i.e. after a period of more than one and half year of filing of the complaint. As such, adverse inference can be drawn that the applicant, with an intention to confer the territorial jurisdiction upon the learned Magistrate, has made a vague averment in the application which appears contradictory with the service of summons/notice on her at village Borda, Tq. Kalamb and other complaints lodged by her at Latur and Kalamb. It would also indicate that the respondent used her temporary residence at her cousin's uncle's house solely to file a case far from the place where the petitioners reside, so that they would have to travel a long distance and incur more expenses.

28. It is pertinent to note that in paragraph no.1 of the application, she made a bald statement that she resides at her cousin uncle's house. However, in the application filed by her under Section 23 of the D.V. Act, she

states that she resides with her cousin brother. There appears to be a discrepancy regarding her relationship with the person with whom she resides. Apart from this, she has produced the electricity bill of the person with whom she is alleged to be living, wherein the name of the said person is mentioned as Ashok *Madhukar* Shelke, and her father's name is Kamlakar *Goroba* Shelke, which itself indicates that Ashok is not the real brother of Kamlakar, so that she can reside there for further educational purposes.

29. It would not be appropriate to ignore the fact that the respondent has initially filed the complaint with the Women Grievance Redressal Cell, Latur on 27<sup>th</sup> March, 2023, then filed the F.I.R. before the MIDC Police Station, Latur on 13<sup>th</sup> April, 2023. In both applications, she has stated her address at Latur. Similarly, the charge-sheet was filed on 31st July, 2024, i.e., after the filing of the application, wherein her address is shown as Latur and her current residence is shown as Borda, Tq. Kalamb. The said documents clearly indicate that she initially resided in Latur with her parents, and later in Borda, Tq. Kalamb.

30. *Besides*, the respondent did not submit her affidavit or affidavit of the so-called cousin uncle or cousin brother in support of her claim that she is temporarily residing there with them at Chhatrapati Sambhajinagar for educational purposes. Therefore, in my view, it is not enough for the respondent to make a bald statement that she is presently residing at

Chhatrapati Sambhajnagar in the house of her cousin uncle or cousin brother, when she admits in other proceedings that she resides at Borda, Tq. Kalamb, but she did not submit any such material, documents, or affidavit before the Court to demonstrate that she is temporarily living at Chhatrapati Sambhajnagar to pursue her further education.

31. No doubt, when the question is raised as to the lack of jurisdiction of the Court to entertain and try the proceedings, the said question goes to the root of the matter. In such circumstances, it would be appropriate to allow the parties to produce documents in support of their contentions. Therefore, by order dated 06th November, 2025, the respondent was directed to address how the learned Magistrate has territorial jurisdiction and also orally directed to produce the documents on record in support of her contention. Still, except for the hall ticket of the MPSC examination Centre, she failed to produce any document or material before the Court to demonstrate that, for the purpose of further education, she has been to Chhatrapati Sambhajnagar. Therefore, in my view, a mere bald statement in the application, without any supporting material, is nothing more than the filing of the application with the intention of harassing the petitioners to travel a long distance from their residence. In such an eventuality, in my view, the respondent failed to demonstrate that she has been residing at Chhatrapati Sambhajnagar with a definite intention to stay there for educational purposes.

32. Thus, to my mind, in the context of Section 27 of the D.V. Act, temporary residence means a residence set up, or acquired in the ordinary course of human affairs and is not a residence set up with an intention to file a case and confer the jurisdiction upon a Magistrate to harass the relatives of the husband. This is the meaning, plainly and naturally, conveyed by the combined reading of key words used in Section 27 of the D.V. Act, which are 'resides or carries on business or is employed', as against the facts that the summons/notices of the revision application and this petition were served on the respondents at Borda, Tq. Kalamb, as well as the address shown by her in the other documents, which indicates that she resided in Latur and then in Borda, Tq. Kalamb. The undisputed documents show that the respondent resides at Borda and not at Chhatrapati Sambhajinagar; thus, she has failed to demonstrate that she resides permanently or temporarily with the definite intention to stay at Chhatrapati Sambhajinagar, or that she has a clear intention or '*animus manendi*' to reside at Chhatrapati Sambhajinagar temporarily for indefinite period for educational purposes as contemplated in section 27 of the D.V. Act.

33. The learned Magistrate in paragraph 6 has observed that the applicant is temporarily residing at Chhatrapati Sambhajinagar for educational purposes; therefore, she did not accept the petitioners' contention at the preliminary stage and rejected the application. Similarly, the learned Additional Sessions Judge, while passing the impugned judgment and order,

held that the order passed by the learned Magistrate is just and proper, and therefore, no interference is warranted, and dismissed the revision. In fact, when the objection was raised by the petitioners before the learned Magistrate as well as the learned Additional Sessions Judge, in such circumstances, it would be obligatory on the Magistrate as well as the learned Additional Sessions Judge to call upon the respondent to produce the document or material in support of her contention that for education she has been residing at Chhatrapati Sambhajnagar as the said question goes to the root of the matter. However, neither of the Courts called upon her to produce the said document on the basis of which she has filed the application before it; i.e., for educational purposes, she resides at Chhatrapati Sambhajnagar. Undisputedly, neither before the learned Magistrate nor before the Additional Sessions Judge has she produced any document on record to demonstrate that, for educational purposes, she had been to Chhatrapati Sambhajnagar and was temporarily residing there, when it is her specific averment in the application that, for educational purposes, she had been there. In fact, it was then incumbent upon her to demonstrate the college and branch or classes to which she had been admitted. But she failed to do so.

34. Therefore, in my opinion, the respondent, in view of filing the complaint at Chhatrapati Sambhajnagar, has averred that she has been residing there for educational purposes. Hence, it cannot be said that she had

such an intention to stay for an indefinite period at Chhatrapati Sambhajinagar for her educational purposes. As such, the orders passed by both the Courts below appear contrary to the mandate of the provisions of Section 27 of the D.V. Act as well as the mandate laid down in the case of *Jagir Kaur* (supra), and therefore, the said orders cannot be sustained in the eyes of law.

35. On perusal of the original application and record, at the outset, it appears that the respondent has filed an application under the provisions of the D.V. Act before the learned Magistrate, contending that she has been residing at Chhatrapati Sambhajinagar for educational purposes. Therefore, the learned Magistrate has taken cognizance of the same. However, upon the petitioners' appearance in the matter, they filed an application, Exh. 6, on 20<sup>th</sup> August, 2024, contending that the respondent is not residing within the jurisdiction of the learned Magistrate. Therefore, the learned Magistrate lacks jurisdiction to entertain and try the said application/complaint. I would like to reproduce paragraphs nos. 5 to 10 of the said application as under :-

“5. असे की, अर्जदाराच्या अर्जाचे अवलोकन केले असता अर्जदार हिने स्वतः कथित घटनाबाबत मा. महिला तक्रार निवारण केंद्र, लातूर येथे तक्रार दाखल केल्याचे नमूद केले आहे. त्यामुळे लातूर येथील मा. न्यायालयात अर्जदार हिने अर्ज दाखल करणे न्यायोचित होते परंतु तक्रार लातूर येथे करून गैरअर्जदार यांना मानसिक, शारीरिक व आर्थिक त्रास देणेंसाठी प्रकरण हे मा. प्रथमवर्ग न्यायदंडाधिकारी, औरंगाबाद येथे दाखल करणे असंयुक्तिक असून सदरचे अर्ज चालविण्याचा कोणताही अधिकार मा. न्यायालयास प्राप्त होत नाही.

6. असे की, अर्जदार हिने दाखल केलेल्या अर्जाचे अवलोकन केले असता अर्जदार हिने ती

छत्रपती संभाजीनगर येथे राहत असल्याबाबत कोणताही कागदोपत्री पुरावा मा. न्यायालयात दाखल केलेला नाही. तसेच अर्जदार हिने जाणीवपूर्वक ती कोठे, कोणते व काय शिक्षण घेत आहे हे देखील मा. न्यायालयापासून लपवून ठेवले आहे. तसेच अर्जदार हिने कोणत्या बँकेकडून कोणत्या शिक्षणासाठी कोणते शैक्षणिक कर्ज घेतले याचा देखील खुलासा मा. न्यायालयात दाखल केलेल्या अर्जात केला नाही आणि त्याबाबतची कागदपत्रे देखील मा. न्यायालयात दाखल केलेली नाही. त्यामुळे अर्जदार ही मा. न्यायालयाच्या कार्यक्षेत्रात राहत आहे ही बाब धादांत खोटी, बनावट व चुकीचे असल्याचे प्रथमदर्शनी दिसून येत आहे. त्यामुळे देखील सदरचा अर्ज चालविण्याचा व न्यायनिवाडा करण्याचा अधिकार मा. न्यायालयास नसल्याचे सिद्ध होत आहे.

7. असे की, अर्जदार हिने जाणीवपूर्वक अर्जामध्ये चुकीची, दिशाभूल करणारी खोटी माहिती गैरअर्जदार यांच्याबद्दल नमूद केली असून कोणताही कौटुंबिक हिंसाचार कधीही गैरअर्जदार यांनी अर्जदार हिच्यावर केलेला नाही. तसेच छत्रपती संभाजीनगर येथे कधीही अर्जदार व गैरअर्जदार क्रं. १ हे एकत्र राहिलेले नाही व कोणतेही कारण छत्रपती संभाजीनगर येथे दाखल करण्याबाबत घडलेले नाही आणि अर्जदार हिने देखील मा. न्यायालयाच्या कार्यक्षेत्रात अर्ज दाखल करण्यासाठी कारण घडले अशी तारीख व कारण हे अर्जात नमूद केले नाही.
8. असे की, अर्जदार हिने ती मा. न्यायालयाच्या कार्यक्षेत्रात राहते फक्त एवढेच नमूद केले आहे व त्या अनुषंगाने कोणताही कागदोपत्री पुरावा दाखल केलेला नाही. त्यामुळे अर्जदार फक्त हिचे म्हणणे लक्षात घेता सदर अर्ज चालविण्याचा व त्यात न्यायनिवाडा करण्याचा अधिकार मा. न्यायालयास निर्माण झाला असे म्हणणे न्यायोचित नाही.
9. असे की, अर्जदार हिने सदर अर्जामध्ये ती छत्रपती संभाजीनगर येथे निश्चित कोणत्या तारखेपासून राहण्यासाठी आली हे नमूद केलेले नाही. तसेच छत्रपती संभाजीनगर येथे ती निश्चित कोणत्या तारखेपासून कोणते शिक्षण कोणत्या महाविद्यालयात घेते हे देखील तिने नमूद केलेले नाही व त्या अनुषंगाने जाणीवपूर्वक कागदोपत्री पुरावा दाखल केलेला नाही. त्यामुळे अर्जदार हिचा अर्ज हाच मुळात विधिविसंगत असल्यामुळे व तो चालविण्याचा मा. न्यायालयास अधिकार नसल्यामुळे व अर्जदार व गैरअर्जदार यांच्यामधील नातेसंबंधाचा मा. न्यायालयाच्या कार्यक्षेत्राशी कोणताही संबंध नसल्यामुळे अर्जदार हिचा अर्ज हा खारीज करण्यात यावा ही नमून विनंती.
10. असे की, अर्जदार हिने आपल्या अर्जामध्ये ती स्वतः औरंगाबाद येथे अशोक मधूकर शेळके यांच्याकडे राहते असा कोणताही कागदोपत्री पुरावा मा. न्यायालयात दाखल केलेला नाही.”

36. A bare perusal of the application shows that in paragraph 5, the petitioners have categorically stated that the respondent, with a view to harassing them mentally and physically, has filed the complaint before the learned Magistrate. In paragraphs nos. 6, 8, and 9, they have categorically averred that the respondent has not produced any document to show that she is residing at Chhatrapati Sambhajnagar, nor has she stated from what date, which college, or what education she has been pursuing at Chhatrapati Sambhajnagar. Still, she has suppressed the said fact from the Court. She has not produced any document on record indicating that she is pursuing education; therefore, she is residing at Chhatrapati Sambhajnagar. However, she has falsely stated that she resides at Chhatrapati Sambhajnagar.

37. In paragraph no.7, it is categorically asserted that the respondent, with a view to misleading the Court, has made incorrect and false averments in the application against the petitioners, and therefore, raised an objection that no cause of action arose within the jurisdiction of the learned Magistrate.

38. Similarly, in paragraph no.10, the petitioners contended that the respondent has not produced any document to show that she is residing at the house of Ashok Shelke (cousin uncle). Therefore, it was submitted that the learned Magistrate lacks jurisdiction to try and entertain the application.

39. It appears that the learned Magistrate, in paragraph nos. 2 and 3, has recorded the said contentions. The learned Magistrate, in paragraph no.4 of the order, has reproduced the averments of the reply to the said application, which reads as under :-

"०४. अर्जदाराने प्रस्तुतच्या अर्जावर तिचे म्हणणे दाखल केले. अर्जदाराचे कथन की, अर्जदारास महिलाच्या घसगुती हिंसाचारापासून संरक्षण कायदा, २००५ च्या कलम २७ (अ) प्रमाणे प्रस्तुत न्यायालयात गैरअर्जदारांविरुद्ध पोटगीचा अर्ज चालवण्याचा व निकाली लावण्याचा अधिकार न्यायालयाच्या कार्यक्षेत्रात येतो. सदर कलमानुसार पिडीत व्यक्ती जेथे राहात असेल मग तो तेथे कायमचा रहिवाशी असेल अथवा तात्पुरता राहिवाशी असेल, ती तेथील न्यायालयात अर्ज दाखल करू शकते. अर्जदार ही सध्या छत्रपती संभाजीनगर येथे राहयास असुन तसा पुरावा अर्जदाराने पोटगीच्या अर्जासोबत जोडलेला आहे. अर्जदार ही छत्रपती संभाजीनगर येथे राहण्यास आहे व सदर अर्ज निकाली लागेपर्यंत छत्रपती संभाजीनगर येथेच राहणार आहेत म्हणुन अर्जदाराने सदर अर्ज प्रस्तुत नयायालयात दाखल केला आहे व सदर अर्ज न्यायालयाच्या कार्यक्षेत्रात येत असुन तो निकाली काढणे हे न्यायोचित व योग्य आहे. अर्जदाराने शेवटी प्रस्तुतचा अर्ज रद्द करुन अर्जदारास तात्पुरती पोटगी मंजुर करण्याची विनंती केली आहे."

40. Though assuming that in paragraph nos. 1 and 11, the respondent has averred that for further educational purposes she had been to Chhatrapati Sambhajinagar, in those circumstances, the cognizance taken by the learned Magistrate and issuance of notices are proper. However, after the appearance of the petitioners and the filing of their detailed objection (Exh. 6), as stated above, in such circumstances it was incumbent on the respondent to produce the documents showing that, for further educational purposes she had been to Chhatrapati Sambhajinagar or for her educational purposes she had the intention to stay at Chhatrapati Sambhajinagar for an indefinite period. If she

had such an intention, then it can only be said that she has been temporarily residing at Chhatrapati Sambhajnagar, as contemplated in Section 27 of the D. V. Act. However, despite the petitioners' strong objection, the respondent failed to produce any document on record before the learned Magistrate to demonstrate that she has taken admission to a particular course, faculty, or college, or that she resides with her cousin-uncle or cousin-brother. But she did not produce any document. Except that she avers that she resides at Chhatrapati Sambhajnagar, nothing has been produced on record to show that she resides there.

41. The learned Magistrate has not taken into consideration the above facts nor directed the respondent to produce the document showing that she is taking education at Chhatrapati Sambhajnagar and residing there or that the learned Magistrate could direct the parties to adduce the evidence on the said point, but the learned Magistrate failed to do so and relying on the sole electricity bill of the cousin uncle, which was produced on record, held that she is residing within its jurisdiction. In fact, filing of the said electricity bill is not sufficient to demonstrate that she has taken education in a particular college or class at Chhatrapati Sambhajnagar. For that purpose, she would have to reside at Chhatrapati Sambhajnagar. Therefore, the finding recorded by the learned Magistrate appears to be contradictory with the observations in *Jagir Kaur* (supra) and with the mandate of Section 27 of the Act. Apart from that, it seems contrary to the settled position of law that she had an

intention to stay for an indefinite period at Chhatrapati Sambhajnagar. Therefore, in my view, mere casual residence in a place for a temporary purpose with no intention of staying there is not covered by the meaning embodied in the word 'reside'. Consequently, she has, on a prima facie basis, failed to demonstrate a clear intention or '*animus manendi*' to reside at Chhatrapati Sambhajnagar for educational purposes.

42. Perused the judgments relied upon by learned counsel for the respondent. In *Abhishek Jain and Ors. and Sumeet Suresh Ninave* (supra), the facts were that the petitioner therein challenged the territorial jurisdiction of the learned Magistrate, Nagpur, on the ground that no domestic violence was caused at Nagpur; therefore, the application filed by the respondent before the learned Magistrate, Nagpur, was not maintainable, as the learned Magistrate has no jurisdiction to try and entertain the application. It also appears that she was residing with her parents in Nagpur; therefore, the Court has passed an order holding that the learned Magistrate at Nagpur has jurisdiction. The case in hand is different from the said case, and therefore, the observations made in the said case are hardly of any assistance to the respondent.

43. In *Rohit Shankar Ojha* (supra), this Court has not dealt in detail with Section 27 of the D.V. Act, but only observed that any contrary averments

regarding the applicant's averments that she is residing within the jurisdiction of the Magistrate will have to be examined and decided during the trial.

44. In *Rajendra and Ors.* (supra), the domestic violence occurred at Ashti, Tq. Wardha, whereas the proceeding was filed before the Magistrate, Amravati, while the wife was residing with her parents at Warud, Dist. Amravati.

45. In *Rabindra Nath Sahu and Anr.* (supra), The facts were that the widow-mother filed an application against her son and daughter-in-law for compelling her to leave the house; she then went to her elder daughter's house and filed the complaint there. The facts in the above-cited cases are therefore distinct from those in the case at hand.

46. In *Puneet Arora* (supra), the allegations of domestic violence were alleged to have occurred outside the territorial jurisdiction of India. Therefore, the complaint under Section 12 of the D.V. Act is not maintainable within the territorial jurisdiction of the place where the wife resides with her parents.

47. In *Ram Lakhan Singh* (supra), the facts were that the petitioner was residing with her brother at New Delhi and filed the application there. Therefore, in light of the facts, the Delhi High Court has held that she has been residing in Delhi with her cousin. She is not living with her parents in

Gurgaon and is unable to shift to her own village flat, as the son of the petitioner is not providing her with maintenance. *It was an admitted fact that the respondent was pursuing her course at Delhi, and nothing has been placed on record to show that she is not residing in Delhi except while studying her course.* Therefore, the Court has held that the application filed by the applicant therein within the territorial jurisdiction of the Delhi Court is maintainable. However, the facts in the above-referred case and the case at hand are different and distinguishable, as in the case at hand, petitioners are disputing that she is pursuing any further education at Chhatrapati Sambhajinagar as well as documents produced on record, i.e. respondents' Adhar Card, Complaints, and reports of service of notices on respondents' indicates contrary to her contentions. Therefore, in my view, the law laid down in the said judgments is hardly of any assistance to the respondent in support of her contention.

48. To sum up the above discussion, it appears that the respondent's marriage was solemnized with the Petitioner No.1 on 29<sup>th</sup> November, 2022, and after the marriage, she was residing with him and in-laws (Petitioner Nos. 2 and 3) at Latur. Similarly, she has lodged a complaint with the Women Grievance Redressal Cell at Latur. She has also filed an F.I.R. with the MIDC Police Station, Latur, against the petitioners, contending that the petitioners subjected her to cruelty. Likewise, her parents reside in Borda, Tq. Kalamb, Dist. Dharashiv. The same address also appears on the respondent's Aadhaar

card. Despite the aforesaid facts, she has filed the application before the learned Magistrate at Chhatrapati Sambhajnagar on the grounds that she intends to pursue further education. However, she did not produce any document before the learned Magistrate, the learned Appellate Court, or this Court to demonstrate which college and which course she had enrolled in to pursue further education, despite the opportunity being given to her. Thus, she has failed to show that she had an intention to stay at Chhatrapati Sambhajnagar for an indefinite period or that she was compelled to reside there temporarily. If such an intention can be demonstrated, then only can it be said that she is '*temporarily residing*' at Chhatrapati Sambhajnagar for the purpose of education as contemplated in Section 27 of the D. V. Act. On the contrary, it emerges that the summons/notices were issued by the Sessions Court as well as this Court to the respondent at the address of Borda, Tq. Kalamb, and the same were served on her at the same addresses, i.e. after filing of the application. In one of the notice reports, it was disclosed that the respondent's father accepted the notice on her behalf and informed the bailiff that she had gone to her friend's house. He did not state that she is not residing there; therefore, he would not accept the same. Those facts appear inconsistent with her contention that she resides at Chhatrapati Sambhajnagar.

49. No doubt, the question of residence is required to be decided, as to whether the party claiming permanent or temporary residence has an intention to stay at a particular place, by affording an opportunity to the concerned parties. However, in the present case, when the petitioners moved an application contending that the learned Magistrate has no jurisdiction to try or entertain the application, it was incumbent on the respondent to show that she has taken admission to any particular class or college at Chhatrapati Sambhajanagar. However, she failed to produce any such document in support of her contention, even after a period of 20 months from the date of filing the application before the Magistrate. However, the learned Magistrate, without considering the same, has held that the said fact can be determined during the trial. Apart from that, the learned Magistrate has failed to record which document she has produced to demonstrate that she resides at Chhatrapati Sambhajanagar for educational purposes, other than the electricity bill for her cousin-uncle's house. The same is inadequate to demonstrate that she resides at Chhatrapati Sambhajanagar for educational purposes. Therefore, the finding recorded by the learned Magistrate appears to be contrary to the mandate of Section 27 of the D.V. Act.

50. Similarly, the learned Additional Sessions Judge has not dealt in detail with the above facts and vaguely observed that the application, prima facie, contends that the respondent is residing at Chhatrapati Sambhajanagar

and she should be given an opportunity to lead the evidence on the point of residence. In fact, it was incumbent on the respondent to produce the document that she had taken admission at a particular college to pursue her further education. Still, she has not produced any document before the learned Magistrate, the learned Sessions Court, or this Court. Thereby, nothing has been brought on the record to indicate that she is pursuing further education at Chhatrapati Sambhajinagar; as such, she is residing there.

51. Temporary residence requires residence at a place to continue the pursuit of any activity or need, which may be educational or other. The period of such residence would vary depending upon the purpose for which it is taken. But, such residence cannot be a residence created to confer territorial jurisdiction upon a Magistrate of a place or otherwise, it would be easy for a woman, well equipped with resources, to go to a faraway place, set up a temporary residence there just to file a case to get the pleasure of seeing husband or persons in domestic relationship being put to travails of long travel and more expenses. So, to my mind, in the context of Section 27 of the D.V. Act, temporary residence means a residence set up or acquired in the ordinary course of human affairs and is not a residence set up with an intention to file a case and confer jurisdiction upon the Magistrate. This is the meaning, plainly and naturally, conveyed by the combined reading of key

words used in Section 27 of the D.V. Act, which are “*resides or carries on business or is employed*”.

52. A note can be taken that nowadays, the tendency has increased among women, to file a case at a place far away from the husband’s residents, with a view to harassing or pressurizing him and in-laws to settle the matter, create a just cause of action and misuse the provisions of the law by filing a complaint at a place where they do not stay permanently or temporarily, as contemplated under Section 27 of the D.V. Act. Thus to curb such tactics; the Courts must be extremely careful and cautious in dealing with such applications. As a consequence, it appears that the respondent is not residing at Chhatrapati Sambhajnagar to pursue her further education, as she did not produce any document to that effect, despite several opportunities afforded by this Court. Therefore, a mere bald averment in the application, without supporting documents, is inadequate to establish that she is temporarily residing at Chhatrapati Sambhajnagar for educational purposes.

53. Consequently, the law laid down in the judgments relied upon by learned counsel for the respondents is hardly of any assistance to her in support of her contention. On the contrary, it reveals that the respondent failed to demonstrate that she had *animus manendi*, i.e., an intention to reside in Chhatrapati Sambhajnagar for an indefinite period for educational purposes. Thus, it appears that the orders passed by the learned Magistrate as

well as the learned Sessions Judge are manifestly illegal and improper, and therefore, interference is warranted in the writ jurisdiction. Thus, I answer point Nos. (I) and (II) in the negative and point No. (III) in the affirmative.

54. As a result, the petition is allowed. The impugned judgment and order dated 07<sup>th</sup> May, 2025, passed by the learned Additional Sessions Judge, Chhatrapati Sambhajinagar in PWDVA Appeal No. 30 of 2025, and the order dated 28<sup>th</sup> January, 2025, passed by the learned J.M.F.C., Chhatrapati Sambhajinagar in PWDVA No. 85 of 2024 below Exh. 6, are hereby quashed and set aside. The application (Exh. 6) filed by the petitioners is allowed. In view of the foregoing discussion, Criminal Application No. 3824/2025 is allowed. However, the respondent is granted liberty to file an application afresh under Section 12 of the D.V. Act before the appropriate forum in accordance with law. The rule is made absolute in the above terms.

55. Inform this order to the Courts below accordingly. No order as to costs. The petition and Criminal Application are allowed and stand disposed of accordingly.

**( ABHAY J. MANTRI, J. )**

SSD