

IN THE COURT OF SESSIONS JUDGE, VAISHALI  
DISTRICT – VAISHALI (BIHAR), Bihar 844101

Domestic Violence Appeal No.01 of 2025

**In Ref. :-**

Radheshyam Singh @ Radhe Shyam Kumar Singh S/o Shambhunath Singh, Resident of village -Kothia, P.S. - Jalalpur, District – Saran. :- Appellant.

Vs.

(i) State of Bihar :- Respondent 1<sup>st</sup>.Party

(ii) Juli Kumari W/o Radheshyam Singh :- Respondents 2<sup>nd</sup>. Party.

Resident of village – Mohanlal Navneet Nagar (Balgna), P.O. - Katihar, P.S. Sadar Katihar, District – Katihar. (At present daughter of Krishnanand Singh of village & P.O. Maudah Dih, P.S. - Patepur, District – Vaishali.

(Against the impugned order dated 10.01.2025 passed by learned A.C.J.M. - XIII, Vaishali at Hajipur in Misc. Case No. 02/2022 (Juli Kumari Vs. Radheshyam Singh)

Lawyer for the appellant :- Mrs. Anjubala Sinha, L.d. advocate.

Lawyer for respondent 1<sup>st</sup> Party (State) :- Mr. Shyam Babu Rai, L.d. P.P., Vaishali,

Lawyer for respondent 2<sup>nd</sup>. Party :- Mr. Awadhesh Singh, L.d. Advocate.

**Date of Judgment :- 15<sup>th</sup> April 2026**

**Present :- Harshit Singh, Sessions Judge, Vaishali at Hajipur.**

**JUDGEMENT**

The present Domestic Violence appeal has been filed by the appellant against the impugned order dated 10.01.2025 passed by learned A.C.J.M. - XIII, Vaishali at Hajipur in Misc. Case No. 02/2022 (Juli Kumari Vs. Radheshyam Singh) filed u/ss. 12, 18, 19, 20 and 21 of the Protection of Women from Domestic Violence Act whereby and whereunder the learned trial court after hearing on the petition u/s 23 of Domestic Violence Act filed on behalf of the respondent 2<sup>nd</sup> Party Juli Kumari, has ex-parte ordered to the appellant to pay Rs.10,000/- per month to the respondent no.2 as ad-interim maintenance and also protection order and residence order.

2. The respondent no.2 Juli Kumari filed a petition u/s 23 of D.V.Act before the trial court stating therein that she is legally married wife of the appellant and the marriage was solemnized on 14.03.2015. In course of living in Sasural, her husband/appellant and his family members demanded cash in dowry and due to non-fulfillment of dowry demand the appellant/husband along with his family members subjected to torture and cruelty with her and ousted her from her Sasural on 21.11.2021 and since then she has been getting shelter at her Parental house. She wants to live in her Sasural in the shared house of her husband/appellant and his parents. On demand of maintenance her husband/appellant along with his parents flatly refused to give any



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farthing for maintenance to her. Her husband/appellant is a man of sufficient means and he earns Rs.75,000/- per month as salary. He has also got three storied building having nine flats. So, it has been prayed to order her husband/appellant to pay Rs.15,000/- per month as maintenance and Rs.2,00,000/- as lump-sum amount for re-establishing her deserted life and also restrain her husband and his family members from committing any cruelty and harassment to her, when she resides at her matrimonial house in way protection order.

3. From the impugned order, it appears that the O.P./appellant despite issuance of notice by the learned trial court neither appeared nor filed his rejoinder before the trial court.

4. From perusal of the impugned order, it appears that the learned trial court after hearing of the learned counsel for the petitioner/respondent no.2 and the material available on the record has passed the impugned order on 10.01.2025 and ordered to the opposite party/appellant to pay Rs.10,000/- per month to the petitioner/respondent no.2 as interim maintenance. The learned court below also ordered to the opposite party/appellant to prevent domestic violence.

5. Being aggrieved and dis-satisfied with the impugned order dated 10.01.2025 passed by learned A.C.J.M. XIII, Vaishali at Hajipur has preferred the present Domestic Violence appeal u/s 29 of the Domestic Violence Act under following grounds: -

- (a) That order dated 10.01.2025 is totally bad in the eye of law.
- (b) The order dated 10.01.2025 is totally based on surmises and conjectures and against the provision of D.V. Act.
- (c) That the said order is bad in law because no D.I.R. was presented, which was called on 10.12.2024 before passing the order dated 10.01.2025.
- (d) That in a criminal revision no. 258/2024 in the name of Sumit Kumar and others Vs. State of Bihar & others, in which the Hon'ble High Court of Judicature at Patna passed an order on 03.04.2025, in which the perfection of D.I.R. must be presented before passing order under provision 23 of D.V. Act.
- (e) That the O.P. no.2, who is the petitioner of Misc. Case No. 02/2022, has not disclosed that the said Misc. case has been filed during the domestic habitation and during such habitation what type of violence has been faced by her.
- (f) That the whole Misc. Case No. 02/2022 does not give any cause of action. On that very date the domestic violence has been occurred with her by the petitioner and the cause, which is related with this case, for which case under section 498(A) of I.P.C. is already run against the appellant.

6. Learned counsel for the appellants has submitted that the impugned order of learned court below is bad in law as well as on facts. The order of the learned court below is highly arbitrary, illegal, improper and unjustified. The Misc. Case no. 02/2022 does not show any cause of action. No D.I.R. was presented, which was called on 10.12.2024 before passing the order dated 10.01.2025. On perusal of case record, it revealed that as per Section 3 of D.V.Act no sign and paper has been presented by the



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respondent no.2 to show that domestic violence has been acted upon her by whom in what manner. Hence, the impugned order is unjustified and liable to be set aside.

7. The learned P.P. for the State (respondent no.1) and the learned counsel for the respondent no.2 Juli Kumari submitted that the learned trial court has rightly passed the impugned order on the basis of the material available on record and there is no illegality in the impugned order. The present criminal appeal is liable to be dismissed.

8. Heard the parties and perused the record and the trial court's record.

9. The point for determination is as to whether, the learned court below has committed any error and illegality before passing the impugned order.

10. The appellant has tried to assail the ex-parte order passed by Learned Magistrate that without Domestic Incident Report, the order dated 10.01.2025 has been passed by Learned Magistrate. The application under section 12 (Miscellaneous Case number 02 of 2022) does not disclose that said application has been filed during the domestic habitation and during such habitation what type of violence has been faced by her. On that very date the domestic violence has been occurred with her by the appellant and the cause which is related with this case for which case under section 498 A of IPC is already running against the appellant.

11. First of all, it can be seen from the order dated 10.01.2025 that while passing the protection order the Learned Magistrate has stated in his order that "From the facts and circumstances on record and perusal of the Domestic Incident Report and affidavit, it is clear that". This clearly shows that Learned magistrate has considered the domestic incident report. Further From perusal of the case record it transpires that Domestic Incident report dated 21.12.2024 is on record.

12. The Domestic Incident Report in the disclosure of domestic violence, it has been mentioned in the head of Dowry-related harassment that: -

1. Demand of a four-wheeled Swift Dzire car,
2. Taken all the gold jewelry, expensive clothes, utensils, and furniture; then, after forcibly obtaining signatures on the blank papers, they ousted her from the house.

The Domestic Incident Report Shows for monetary relief of ₹15,000 per month.

The other expenses show: - Medical facilities, a habitable room within a residential home, and security arrangements provided by the administration.

It is also mentioned in the DIR that complaint case no. 86 of 2022 has also been filed.

13. Hence the plea taken by the appellant that there was no domestic incident report on the record and the same was not considered by the Learned Magistrate is false and baseless.

14. There is no bar that after filing the complaint for a criminal case, Domestic violence case cannot be filed. The "object and reasons" of Domestic Violence Act clearly provides that the remedy under this Act is substantially a civil remedy and



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provisions have been legislated to provide immediate relief to the victims of **Domestic Violence** in respect of residence, custody of child and monetary relief.

15. Courts assess maintainability and strength of the claim on the facts. Living apart does not automatically defeat a D.V petition (a wife can still be an 'aggrieved person'), but long unexplained separation and absence of contemporaneous evidence weaken proof of ongoing domestic violence and has led courts to dismiss delayed petitions.

In this case the complainant was ousted from her in-law's house on 21.12.2021 and the case was filed on 05.01.2022. This shows that immediately, the complainant was ousted, she filed her complaint.

16. From perusal of the order dated 10.01.2025, it transpires that the Learned Magistrate has passed Protection order to not to commit any mental or physical violence with the complainant. Residence order, orders that he shall not prohibit the applicant from residing in the shared household, nor shall he, by resorting to any form of violence, compel her to leave the shared household. Monetary relief orders that the opposite party is directed to pay ₹10,000 per month to complainant.

17. The appellant has not uttered any word about his income or has not filed any affidavit regarding his income. The complainant has specifically stated that appellant is engineer. The appellant has also not stated in his appeal that whether he has shared household or not nor raised question about monetary relief on his income. He has further not submitted any detail about his income. The complainant was ousted on 21.12.2021 and since then she is living at her maternal home.

18. I do not find any merits in any of the grounds urged by the appellant in the appeal memorandum. As such, appeal under section 29 of the D.V. Act filed by the appellant against the ad-interim order is deserves to be dismissed.

Hence the appeal is dismissed and the order dated 10.01.2025 passed by Learned ACJM 13<sup>th</sup>, Vaishali, is upheld.

*The Judgment is pronounced and delivered in the open Court under my seal and signature on this 15<sup>th</sup> of April 2026.*

The Judgment is dictated and corrected by me:

*Harshit Singh*  
Harshit Singh  
Sessions Judge, Vaishali  
Dated : 15.04.2026



*Harshit Singh*  
Harshit Singh  
Sessions Judge, Vaishali  
Dated : 15.04.2026