

ORDER BELOW EXH. 12 IN M.C.A. No. 207/2022

By way of present application the applicant is claiming interim maintenance from non-applicant under section 125 Code of Criminal Procedure, 1973. (Hereinafter referred to as Cr. P.C.) Presently applicant is residing at her parental house. She has alleged that, the non-applicant has left her company without any reasons. Therefore, she has alleged that, non-applicant has not made any provision for the survival of applicant. It is submitted that, applicant is not earning anything. Applicant is dependent upon non-applicant and non-applicant being her husband is liable to maintain applicant. The non-applicant is the teacher by occupation by earning 66,501/-. He is having sufficient income to fulfill the liability of maintenance. The applicant is claiming interim maintenance of Rs. 35000/- per month against non-applicant.

2) Non-applicant has contested the application and filed say at Exh. 10. The learned advocate for non-applicant has submitted that, applicant is a teacher and having salary of Rs. 66,501/-. However, he receives the amount of Rs. 32,000/- only in hand per month. Moreover, applicant has filed proceeding under Domestic Violence act wherein the applicant is granted the amount of Rs. 7,000/- as interim maintenance. It is further submitted that, parents of the non-applicant are dependent upon him. Therefore, it is

prayed that, applicant is not entitled to interim maintenance under this proceeding.

3) Perused record. Heard and considered submissions of the applicant and non-applicant.

4) The application is supported with affidavit. Prima facie, it appears that, there is relationship of marriage between the parties. Moreover, the applicant has stated on an oath that, non-applicant is having sufficient income source to pay the interim maintenance. It is not the case of non-applicant that, he is not having any income. To support the contention, the applicant has place on record salary slip of the non-applicant. It clearly shows non-applicant has salary of Rs. 66,501/- per month. Therefore this is sufficient evidence to come to the conclusion that, non-applicant has sufficient means of income.

5) I have perused the record. It is admitted fact that, applicant has filed proceeding under Domestic Violence Act and wherein interim maintenance has been granted in her favour. Further, it appears that, the applicant has also claimed interim maintenance under this proceeding. The interim maintenance in D.V. proceeding has been taken in to consideration while granting interim maintenance. Since, the parents of the non-applicant are

also dependent upon him. Similarly applicant is also dependent upon non-applicant. In order to show sufficient income of the non-applicant, applicant has place on record salary slip which shows the salary of Rs. 66,501/- per month is getting to the non-applicant. On the contrary, non-applicant has not given any detail about income of the applicant. Therefore, prima facie it said that, applicant is dependent upon non-applicant and she has no income source to maintain herself.

6) The learned advocate for the non-applicant has contended that, if applicant is receiving interim maintenance in proceeding under Domestic Violence Act, applicant is not entitled for the interim maintenance in any other proceeding. To support this contention learned advocate on placed reliance on **Pushppa Ogale Vs State of Maharashtra, 2013, ALL MR (Cri) 1799** wherein it was held that as to the subsist of relationship in the from marriage was not in existence. Therefore, ratio led down in the present case is not squarely applicable in facts in hand.

7) As far as the date of effect of interim maintenance order is concerned I think it is just and proper to award interim maintenance to the applicant from the date of applications which is 06/10/2022. Accordingly, I

pass following order –

ORDER

- 1) The application is partly allowed.
- 2) The non-applicant is directed to pay interim maintenance at the rate of Rs. 1,000/- (In words One Thousand Rupees Only) per month to the applicant from the date of application i.e. 06/10/2022 and shall continue to pay till final disposal of main petition.
- 3) Copy of this order be supplied to applicant free of costs.

Nandura.
Date – 17/06/2023.

(R.A. Misal)
Judicial Magistrate F.C.,
Nandura.

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“I affirm that the contents of this P.D.F. file Order are same word for word as per original Order.

Name of the Steno :- Y.S. Muley.

Name of the Court :- Judicial Magistrate F.C.,Nandura.

Date of Signature of
Presiding Officer :- 17/06/2023.

Date of Order
uploaded :- 17/06/2023.