

14.05.2026

Pet: Smt. IMR Adv.,

Res: Sri.RKM Adv., **ORDER ON IA No.I**

Orders on IA No.I

The petitioners have filed the present application under Section 23 (2) of the Protection of Women From Domestic Violence Act, 2005 (Hereinafter referred to as 'DV Act', for brevity) seeking an interim maintenance of Rs.30,000/- per month till disposal of the petition.

2. The excerpts of the petition in this case is as follows, the first petitioner is the legally wedded wife of respondent No.1, and their marriage was solemnized on 21.08.2008 at Praveen Shadi Mohal, Kolar as per Muslim rights and customs. Out of the said wedlock, second and third petitioners were born to them. Thereafter, the respondent is addicted to bad habits like consuming alcohol and used to come to house late at night by consuming alcohol. He also harassed the first petitioner mentally and physically by assaulting her. When, the first petitioner informed the other respondents, they kept mum and, without advising the first respondent directed the first petitioner to adjust and live with first respondent. The first respondent has not taking care of the petitioners and did not provided proper food, clothes and groceries. The respondent is working as a lorry driver and earns Rs.60,000/- per month as salary. The first respondent though having sufficient

means had neglected to maintain the petitioners. With these, prayed to allow the application.

3. In pursuance to the notice issued by this Court, the respondents appeared through their counsel and resisted the application by filing objection. It is specifically contended that the averments made in the application are false, frivolous and concocted one. They never ill-treated the first petitioner as averred in the application. The first petitioner has filed the present petition only to harass the respondents and enrich herself. After the marriage, they provided education to the first petitioner from their family earnings, and after completing the education, the first petitioner became a teacher. They have purchased the property in the name of the first petitioner and the first respondent from the family income in Hosakote Town and have also constructed an RCC house there. The petitioners and the first respondent are presently residing in the said house and respondents No.2 to 7 are residing in the rented house. The first respondent is addicted to bad habits such as consuming alcohol and his health has deteriorated due to consumption of alcohol. The first respondent is not having income as averred in the application and same is imaginary one. The first respondent has availed himself of several hand loans from others. The first petitioner is working as a teacher and earns lucrative income. The first petitioner has sufficient means to

maintain herself and other petitioners. Therefore, the respondents prayed to dismissal of the application.

4. The points that would arise for my consideration are:

1. Whether the petitioners are entitled for interim maintenance? If so, at what rate?
2. What Order?

5. I have heard the learned counsel for the parties to the lis and meticulously perused the materials on record.

6. My answers to the above points are as follows:

Point No.1 : In the Partly Affirmative;

Point No.2 : As per final order, for the following:

∴ REASONS ∴

7. **Point No. 1:-** After hearing, careful perusal of affidavit, objection and materials placed on record, the petitioners have filed the present application for grant of interim maintenance of Rs.30,000/- from the respondent. It is the specific case of the petitioners that, after the marriage, the first petitioner accompanied the respondent to matrimonial home. In the matrimonial home, the respondent and his family members tortured her physically and mentally. She has no any source of income to maintain herself and

other petitioners. The first respondent having a lucrative income deliberately neglected to maintain them.

8. The Learned Counsel for the petitioners submitted that, the first petitioner has placed substantial materials to show that the first petitioner is legally wedded wife of the first respondent. The first petitioner has no source of income to maintain herself and her minor children. The first respondent being husband had a statutory obligation to maintain the petitioners. As such, she prayed to award interim maintenance as prayed in the application. **Counter to that,** the learned counsel for the respondents submitted that the first respondent is suffering from severe health issues and has no means to provide maintenance. The first petitioner is working as a teacher and earns a lucrative income. The income earned by the first petitioner is sufficient to maintain herself and the other petitioners. As such, he prayed to dismissal of the application.

9. It is undisputed that, the marriage between the first petitioner and the first respondent was solemnized on 21.08.2008 at Praveen Shadi Mohal, Kolar as per Muslim rights and customs. It is also undisputed that the second and the third petitioners were born to the first petitioner and the first respondent. It is the specific contention of the petitioners that after the marriage, the first respondent is addicted to consuming alcohol and harassed the first petitioner mentally and physically by assaulting her. The first

respondent has not taking care of the petitioners and did not provided proper food, clothes and groceries. Curiously, the respondents categorically admitted that the first respondent is addicted to consuming alcohol and as such, he is not doing any work. Therefore, the claim of the first petitioner that the first respondent has not taking care of the petitioners holds merits. In the case on hand, the respondent had taken specific defence that they have purchased the property in the name of the first petitioner and the first respondent from the family income in Hosakote Town and have also constructed an RCC house there. The petitioners and the first respondent are presently residing in the said house. Therefore, the first petitioner is not entitled to any maintenance. It is worth to refer decision of the Hon'ble High Court of Bombay in the case of Rajkumar Amruthrao Guddadigi -Vs- Shailaja Rajkumar Guddadigi reported in 2024:BHC-AS:290 wherein the Hon'ble High Court held at para No.10 that **the mere fact that she is residing in the matrimonial home is not a pretext to disentitle her to a reasonable amount of maintenance. She still needs some amount towards food, medicine, clothes and educational expenses for the child. Thus, considering the status of the parties, reasonable needs of the wife and minor son are parameters to be considered while determining the sufficiency and the reasonableness of the quantum of interim maintenance**

to be adjudged so that the wife is able to maintain herself and the minor son in reasonable comfort. In view of above ratio, even if the petitioner/wife having residence, she is still entitled to claim maintenance. Therefore, at this stage, the petitioners have established a ground to be entitled to maintenance.

10. In respect of awarding the quantum of interim maintenance, the first petitioner specifically contended that the first respondent is a driver by profession and earns more than lucrative income/-. On the other hand, the respondents categorically admitted that the first respondent is a driver by profession. The learned counsel for the respondents vehemently argued that, the first petitioner is a teacher by profession and she has sufficient means to maintain herself and other petitioners. In the case on hand, the first petitioner claimed she works in a private school and earns Rs.10,000/- per month. The said salary is not sufficient to maintain herself and the other petitioners. So far as salary of the first petitioner concerned, the respondents have not produced any contra documents. It is pertinent to note that despite sufficient opportunity, the first respondent did not choose to file affidavit of assets, income, and expenditure. I have carefully and cautiously gone through the affidavit of assets, income, and expenditure submitted by the first petitioner and material placed on record. It is worth to refer decision of the Hon'ble Apex Court in

the case of Bhuwan Mohan Singh -Vs- Meena and Others reported in (2015) 6 SCC 353 wherein the Hon'ble Apex Court held at para No.2 that **the concept of sustenance does not necessarily mean to lead the life of an animal, feel like an unperson to be thrown away from grace and roam for her basic maintenance somewhere else. She is entitled in law to lead a life in the similar manner as she would have lived in the house of her husband. That is where the status and strata come into play, and that is where the obligations of the husband, in case of a wife, become a prominent one. In a proceeding of this nature, the husband cannot take subterfuges to deprive her of the benefit of living with dignity. Regard being had to the solemn pledge at the time of marriage and also in consonance with the statutory law that governs the field, it is the obligation of the husband to see that the wife does not become a destitute, a beggar. A situation is not to be maladroitly created whereunder she is compelled to resign to her fate and think of life "dust unto dust". It is totally impermissible. In fact, it is the sacrosanct duty to render the financial support even if the husband is required to earn money with physical labour, if he is able bodied. There is no escape route unless there is an order from the Court that the wife is not entitled to get maintenance from the husband on any legally permissible grounds. It is also**

worth to refer decision of the Hon'ble Apex Court in the case of Anamika Jain -Vs- Dr. Atul Jain in SLP (C) No.5220/2024 dated 28.01.2026 wherein the Hon'ble Apex Court held at para No.10 that **Marriage, as an institution in our society, is founded on emotional bonding, companionship, and mutual support, which cannot be evaluated in purely monetary terms. A woman often enters matrimony with legitimate aspirations of a stable and dignified life. When such a marriage breaks down, the obligation of the husband to ensure that the wife is able to live with dignity does not come to an end merely on the ground that she is educated or has parental support.** It is also worth to refer decision of the Hon'ble High Court of Karnataka, Bengaluru in the case of Smt. Bhavya K., and another -Vs- Sri. Madhusudan M., reported in NC:2024:KHC:33610 wherein the Hon'ble High Court held at para No.26 that **order for interim maintenance must be tentative to ensure that wife and children survive time consumed during adjudication of application for maintenance.** It is also worth to refer decision of the Hon'ble High Court of Delhi in the case of Mr. Hari Shankar -Vs- Ms. Payal Seth reported in 2025:DHC:5109 wherein the Hon'ble High Court held at para No.13 that **financial support delayed is dignity denied.** Considering the affidavit of disclosure of the assets and liabilities filed by the petitioner and present prevailing situation and

education expenditure of the second and the third petitioner, if the monthly maintenance is awarded at the rate of Rs.3,000/- per month to the first petitioner and Rs.2,000/- each to the second to fourth petitioners would meet the ends of justice. Accordingly, I answer point No.1 in the '**Partly Affirmative**'.

11. **Point No.2:-** In view of discussion and the findings arrived at point No.1, I proceed to pass the following:

ORDER

IA No.1 filed by the petitioners under Section 23(2) of the DV Act seeking interim maintenance is allowed in part.

Consequently, the first respondent is directed to pay an interim maintenance of Rs.3,000/- per month to the first petitioner and Rs.2,000/- each to the second to fourth petitioners from the date of the application till the disposal of main petition.

Call on : 22.06.2026

(Satisha B.)
Prl. Civil Judge & JMFC.,
Hoskote.