

Order below Exh. 23 in PWDVA Application No.10/2024

CNR-NO-MHBU130004862024

(Kalpana Randhumal & others V/s Pushkar Randhumal & others)

By the application under consideration, applicant No.1 wife Mrs. Kalpana Pushkar Randhumal has prayed for interim maintenance from the non applicant No. 1 under Section 23 of the Protection of Women from Domestic Violence Act, 2005 (hereinafter the applicant No. 1 is referred by the initial name Kalpana for the sake of convenience).

2) Applicant Kalpana submitted that her marriage with non-applicant No.1 solemnized on 25/02/2016 at the office of Registrar of Marriage. After few days of marriage non-applicants started giving ill-treatment to her. Applicant is having one daughter applicant No. 2 Ku. Lakshika, one son Shrawan applicant No. 3.

3) Applicant in her application has leveled serious allegation against non-applicants. The non-applicants were demanding Ten Lakh for purchasing plot. The non-applicant No. 1 under the influence of liquor was given abuse and commit physical and mental torture to the applicant. The non-applicant No. 1 used to give ill treatment on account that applicant begotten one girl Ku. Lakshika. The non-applicant No. 1 is in State Reserve Police Branch at Chatrapati Sambhaji Nagar. He used to beat Kalpana with the use of police belt and used to give vulgar abuse to her. In spite of understanding given to him but all proved in vain and all meetings for

reconciliation failed. Even the parents of Kalpana has given Rs. 10,00,000/- by selling agricultural land, but the non-applicant No. 1 continued to give ill-treatment to her. The non-applicant No. 1 is having illicit relationship with the non-applicant No. 3. On the say of the non-applicant No. 3 and 4 the applicant No. 1 is giving ill-treatment to her. On 02.11.2023 the non-applicant Nos. 1 to 3 tried to forcefully consumed poison to the applicant. The non-applicant No. 1 was doing unnatural sex with applicant. Lastly Kalpana filed complaint before Woman Redressal Forum District Buldana. On the requisition of said forum offence u/s 498-A, 323, 504, 506 r/w 34 registered against non-applicants. By this application the applicant claimed 20,000/- each for applicant Nos. 1 to 3 and Rs. 10,000/- for rent with protection order. The non-applicant No. 1 is a police officer in Local Crime Branch and running one subsidize canteen. He is getting Rs. 1,00,000/- out of income from these sources. On the contrary applicants are having no source of income.

4) After service of notice the non-applicant No. 1 to 4 appeared before the Court and non applicant No. 1 and 2 filed say vide Exh. 19. Non-applicant No. 3 and 4 are discharged by the order of Hon'ble High Court Nagpur Bench. They submitted that all the allegation mentioned in application are false. The applicant willfully deserted to the non applicant No. 1. She is willfully residing with her parents. The non-applicants have not demanded Rs. 10,00,000/-. The applicant No. 1 falsely filed false complaint before woman redressal forum and lodged false complaint u/s 498-A and other section of I.P.C. The applicant No. 1 suppressed the

material fact from the court. She was persistently used to visit at her parental home. she was not happy with the visiting of parents of non applicant No. 1. The hand of non applicant No. 1 is fractured in one accident and he is having 45 per cent disability handicap certificate. The non-applicant never given physical mental ill-treatment to applicant No. 1. The non-applicant No. 1 has filed complaint to police station against applicant No. 1 and on the basis of compliant one non-cognizable case registered against Kalpana bearing N.C.R. No. 1273/2021 dated 12.11.2021. The applicant tried to commit black magic on non-applicant No. 1. The non-applicants have given understanding to her through relatives. The applicant No. 1 has removed the admission of applicant No. 1 and 2 from the school. She do not allow to the non-applicants to meet with applicant No. 1 and 2. Therefore the non applicant No. 1 has filed suit for dissolution of marriage before Family Court at Sambhaji Nagar, which is pending in the said Court.

5) The applicant No. 1 is educated and she works of sewing clothes and she knows work of designing. She also completed beauty parlor course and runs one beauty parlor and getting Rs. 10,000/- p.m., therefore, she is having source of income for the livelihood for herself and applicant No. 1 and 2. On the contrary the non applicant No. 1 is having heart disease therefore he cannot do any work. In the same way he is the handicap and having responsibility of his age old parents. Therefore, the non applicant No. 1 is not capable and bound to maintain the applicants.

6) Thus it appears that applicant Kalpana has filed documents showing that applicant has taken every action against non applicants and there appears there is strained relationship between applicant and non applicants. The applicant leveled allegation of verbal and nonverbal domestic violence by the non-applicants. Her allegation prima facie certainly amounts to domestic violence in view of Section 3 of Protection of Women from Domestic Violence Act 2005. Moreover, she has lodged first report under Section 498-A & other sections of I. P. C. against non-applicants and said Regular Criminal Case is pending before this Court. Admittedly, the applicant is residing with her parents. The non-applicants have not provided maintenance for daily necessities of life like food, medication and accommodation. The non applicant no 1 has filed suit for dissolution of marriage. He has not send any notice for conciliation meeting to applicant no.1. He has not filed suit for restitution of conjugal right. Therefore I am of the view that in the facts and circumstances the act of non-applicant No. 1 prima facie falls within the ambit of sec-3 of Protection of Women from Domestic Violence Act 2005.

7) The applicant is entitled to live according to the standard of life like that of non-applicant No. 1. In the light of aforesaid facts, the only point for considering is whether applicant is entitled for interim maintenance for herself ? At what rate ? However, for the purpose of hearing the present application, it is not necessary to go into the correctness or otherwise of the averments in the petition. It would be suffice to consider the pleading relating to the prima facie claim of

interim maintenance. The applicant has filed copy of salary certificate of non-applicant no 1. perusal of salary certificate it appears that total salary is of Rs. 68,847/- and net pay is Rs. 51,469/- of month Oct-2024. Moreover, the applicant No. 1 has filed the copy of 7/12 extract of land gat no 569/2, copy of 7/12 extract of land gat no 569/21. On perusal of 7/12 extracts. It appears that agricultural land admeasuring 1.50 HR is in the name of wife of non-applicant No. 2 and agricultural land admeasuring 1.50 HR is in the name of non-applicant No. 2. Thus it appears that non-applicant No. 1 and 2 is having sufficient source of income. On the contrary the the non- applicant has filed photographs in which it is appearing that that applicant No. 1 is stand near the sewing machine in the house. This photographs does not reflects that applicant No. 1 is doing job of tailoring.

8) Admittedly, the relationship with applicant and non-applicants is in subsistence and non-applicant No.1 is in Government service and having agricultural land. As the relationship is admitted and it is his bounden duty to maintain her wife and children. Today the applicant no 1 has filed the medical prescription of applicant no 2 Lakshika Randhumal issued by Dr. Sunik Kevat. He diagnosed that applicant no 2 is suffering from tonsillitis and required operation. Thus applicants are a need of interim maintenance for food medication etc. Hence, I am of the opinion that applicant is entitled for interim maintenance of Rs.6,000/- to each applicant which comes to total 18000/-. Hence, the application is liable to be partly allowed.

ORDER

1. Application is partly allowed as under.
2. The non-applicant No.1 do pay the applicants No. 1 to 3 amount of Rs.6,000/- each (Rs. Six Thousand only) each per month towards the interim maintenance from the date of present application until the final decision of the present petition.

Chikhli

Date: 31/07/2025

sd/-

(I. A. Y. A. KHAN)

Judicial Magistrate First Court,
Chikhli