

**I N THE COURT OF ADDITIONAL CHIEF METROPOLITAN MAGISTRATE
22nd COURT, ANDHERI, MUMBAI.
C.C. NO.185/DV/2022**

**ORDER BELOW INTERIM MAINTENANCE APPLICATION EXH-20
FILED BY APPLICANT**

The order being part and parcel of the interim application, therefore facts of the case are not reiterated to avoid repetition.

2. The respondent has filed his reply at Exh-23 denying all the allegations therein and submitted that the applicant has filed a divorce petition along with consent terms wherein she waived her right to claim alimony. Therefore, she is now stopped from litigating against respondent in the Court of law. The allegations in the application are vague and baseless. She left the matrimonial place on her own, without any reason. There is no incident of domestic violence. The applicant used to ignore her duties towards the family. The present petition is filed just to extort money. The applicant has deserted respondent and she is not entitled to claim maintenance. The applicant is educated lady and she can earn and maintain herself. Asking for interim maintenance is unwarranted in the present set of facts.

3. The marriage between the parties is an admitted fact on account of marriage register certificate placed on record. From the assets & liabilities statement filed on record, the respondent has his own source of income and he is working as Office Assistant and earning Rs.12,000/- per month._

4. Heard. Perused record.

5. The allegations against respondent being on affidavit cannot be brushed aside lightly. In the affidavit she alleges that

...2/-

... 2 ...

she was subjected to mental and physical harassment. The applicant has also lodged F.I.R. against respondents and proceeding u/s. 498(A) of IPC against respondents is subjudice which prima-facie supports her claim of cruelty meted out at the hands of respondent while she was in domestic relation with them.

6. The argument of respondent that by virtue of consent terms filed before the Hon'ble Family Court by applicant, thereby giving an undertaking to give up all kinds of claims against respondent, estops her from litigating before any Court much less for seeking maintenance, as she has violated the consent terms. This argument is unacceptable for a simple reason that the consent terms filed before the Hon'ble Family Court could not materialise just because of absence of respondent No.1 and it was filed to seek divorce jointly by both the parties. Right to claim maintenance cannot be disallowed just because she filed an undertaking in a form of consent terms, before family Court.

7. The applicant admittedly claiming maintenance for herself and she doesn't have source of income. Since separation there is nothing on record to show that the respondent at any point of time made any attempt to lay monetary help to the applicant. As far as the allegations and counter-allegations by the parties are concerned, they cannot be adjudged at the threshold. It requires full fledged trial to arrive at a conclusion whether they are true or false. The respondent is morally and legally bound to maintain his wife. Looking to the liabilities of the respondent and facts disclosed in Asset & Liability statement, following order will meet the ends of justice :-

ORDER

1. The application is **partly allowed**.

...3/-

2. The respondent No.1 is hereby directed to pay maintenance of **Rs.5,000/- per month** to applicant from the date of filing of interim application, till disposal of the main petition.
3. The respondent is hereby prevented from committing any sort of domestic violence upon applicant.
4. Copy of the order be provided free of cost to the applicant.

Sd/-

(J. W. Gaikwad)

Addl. Chief Metropolitan Magistrate,
22nd Court, Andheri, Mumbai

Date :- 21.03.2025