

MHAH160001692022



**ORDER BELOW APPLICATION Exh. 5 IN CRI.M.A. NO. 54 OF
2022**

The present application has been filed by the aggrieved person against the opponent under Section 12 of the Protection of Women from Domestic Violence Act, 2005 (in short “DV Act”). By moving of the present application (Exh. 5) the aggrieved person has prayed for grant of interim maintenance and for the interim amount for house rent.

2. Perused the (Exh. 5) which moved for interim relief wherein it has been contended that, the aggrieved person Shital Sandesh Gurav is the legally wedded wife of the opponent Nos. 1. The opponent Nos. 2 and 3 are the father-in-law and mother-in-law of the aggrieved person. After the marriage, the aggrieved person was cohabited with the opponent Nos. 1 at her matrimonial house, wherein she was subject to cruelty by the opponents on the ground of the demand of dowry of Rs. 10,00,000/- for purchase of new flat. The opponent Nos. 1 has liquor addiction, under the influence of the liquor, he used to assault over the aggrieved person. The opponent Nos. 1 is suffered from epilepsy and he used to take

treatment for the same. The opponents have concealed the said fact from the aggrieved person. But, neglecting the said fact, the aggrieved person tried her best to preserve her relations with the opponent, they used the cruelty over her. On 10th March, 2021, the opponents have demanded the dowry amount to aggrieved person on failure of the same they have beaten the aggrieved person and thrown out her from matrimonial house. Hence, the aggrieved person has left only option to reside at her paternal house.

3. The opponent Nos. 1 is an architecture engineer. To create a false evidence, the opponent have sent registered notice to the aggrieved person on 07.04.2021, which was rightly answered by the aggrieved person. Over, these reasons the aggrieved person compelled to reside at parental house, she is unable to maintain herself, meanwhile, the opponent Nos. 1 has not made any provisions for the maintenance of the aggrieved person. He is the husband of the aggrieved person, and architectural engineer by profession by which he has earning handsome salary of Rs. 35,000/- p.m. He has no other responsibility over him. The opponent family owns a irrigated agriculture land at village Mayni, Talula Khatav, District Satara, from which they are getting rupees four to five lac income per annum. The aggrieved person is starving because, she has no

other source which can she use to survive. Hence, the preset main application has been filed by the aggrieved person, but as there is time required for the decision of the main application aggrieved person is in need of interim maintenance amount, the relations between the parties are not denied by the opponent Nos. 1. Therefore, it has been prayed by the aggrieved person that monthly Rs.10,000/- may kindly be granted to her as interim maintenance. It has been also prayed that Rs. 5000/- may grant towards the rent allowance from the opponent Nos.1 as per the provisions of Section 23 of the DV Act. Accordingly, it has been prayed that application may kindly be allowed.

4. The opponent Nos. 1 to 3 have failed to file the say to the interim application but, at Exh. 18 they have filed their say to the main application. I have considered it as a say to the interim application, wherein opponent Nos. 1 to 3 admitted the relations with the aggrieved person. The strongly resisted the application of the aggrieved person, they submitted that, the aggrieved person voluntarily deserted the opponent Nos. 1 as she has not interested in cohabitation. After, the marriage, the aggrieved person insisted the opponent Nos. 1 to reside separately from opponent Nos. 2 and 3, which was denied by the opponent Nos. 1 hence, aggrieved person left out the house of the opponent, they sent the legal

notice to her but, she denied for cohabitation. They admitted that the opponent Nos. 1 is an architecture engineer but, due to the act of the aggrieved person, he was removed from her job. Now, he is not a earning member of the family of the opponents. They have not owns any agriculture land as claimed by aggrieved person, they are ready for cohabitation with the aggrieved person, but she refused the same. The opponent Nos. 2 and 3 are old aged person having B.P. and hypertension they have monthly expenses over their medications. On the other hand, the aggrieved person is highly education and doing a service she earns a handsome income per month, she is not dependent on the opponents. Hence, it has been prayed that the application may kindly be rejected.

5. Heard learned advocate Shri. M.K. Hande on behalf of the aggrieved person. Considering the recitals and prayer of the application (Exh. 5) following points arisen for my determination. I have given my thoughtful considering for the same along with reasons as follows:

Sr. No.	Points	Findings.
1.	Whether aggrieved person entitled for interim maintenance from the opponent Nos. 1 as claimed ?	Partly affirmative. The aggrieved person is entitled for interim maintenance of

		Rs.3000/- from opponent nos. 1.
2.	Whether aggrieved person entitled for house rent from opponent Nos. 1 as claimed ?	No.
3.	What order ?	As per final order.

EVIDENCE

6. The aggrieved person has filed his income affidavit at Exh. 06, at Exh. 7, the aggrieved person filed her affidavit for income and at Exh. 21 the opponent Nos. 1 has filed his affidavit of income. Heard both sides.

REASONS

As to point Nos. 1 :-

7. Perused the original application and the present application for interim relief which is at Exh.5. It is seen that, the original application is moved by the aggrieved person under Section 12 of the DV Act. By way of moving the present application, the aggrieved person exclusively prayed for interim maintenance from opponent Nos. 1.

8. I have given by thoughtful consideration to the recitals made in the application. It is seen that it revolves around the three

main points that the aggrieved person nos. 1 is the wife of the opponent Nos. 1, secondly, she has been using to reside at paternal house of the aggrieved person and lastly, she is unable to maintain herself, and for the same she is seeking the interim maintenance from the opponent Nos. 1. It is the contention of the aggrieved person that the opponent Nos. 1 is an architecture engineer by profession which has been admitted by the opponents in their say, but it is the contentions of the opponent nos. 1 that due to the act of the aggrieved person he has left his job and now, he is not earning anything as he has not doing any job. It is also denied by the opponent that they have any agriculture land in their name and they are earning the four to five lac per annum from the same. I have perused the record. It has been seen that, there is no record or evidence on record which can show that there is any land in the name of the opponent Nos.1. There is no record of rights have been filed on record, hence, it is not established on record that the opponent Nos. 1 to 3 owns any immovable land in their name, hence, the income of this side has not been proved.

9. It is the contention of the opponent Nos. 1 that he left his job due to the act of the aggrieved person hence, he has no income now and he is unable to give any maintenance to her. It has to be mentioned here that the opponent Nos. 1 is husband of

the aggrieved person and he had doing architectural engineering. As a husband of the aggrieved person no. 1 he has responsibility to maintain her. At present the aggrieved person used to reside at her paternal house. During this period the opponent Nos. 1 has not given any amount for maintenance to her.

10. Considering the fact which is proved on record that aggrieved person is the legally wedded wife of the opponent Nos. 1 and she has been residing separately from opponent nos. 1. And during this time, opponent nos. 1 has not made any arrangement of her maintenance, she is entitled for maintenance amount from the opponent Nos. 1 as their relations still exists. Considering the social status and profession of the opponent Nos. 1 as architecture engineer and considering the fact that there is time required to dispose the present application, it is desirable to award the monthly interim maintenance of Rs.3,000/- to aggrieved person. Accordingly, I answered point Nos. 1 is in partly affirmative.

As to point Nos. 2 :-

11. The aggrieved person demanded Rs.5,000/- from the opponent nos. 1 towards the house rent. It is the contention of the aggrieved person that after the deserted by the opponent Nos. 1 she used to reside with her parents. Therefore, considering the fact

that at present the aggrieved person has shelter at her paternal house, there is no need to grant any house rent especially when the aggrieved person is not residing at rented premises. Hence, the point Nos. 2 is answered in negative.

As to point Nos. 3 :-

12. Considering the discussion made in point Nos. 1 and 2, following order have been passed :-

ORDER

1. The application is partly allowed.
2. The aggrieved person has been granted the interim maintenance amount of Rs. 3000/- from opponent Nos. 1.
3. Opponent Nos. 1 is hereby directed to give the said interim maintenance as mentioned in clause 2 of the order, from the date of filing of present application to aggrieved person.

Date: 04/09/2023

(Rahul K. Gaikwad)
Judicial Magistrate First Class,
Akole.