

ORDER BELOW EXH. 05

(CNR No.MHAH250027862023)

1. Perused the application. Heard learned Advocate for the both sides.

2. It is submitted that, applicant got married with Respondent no.1 on 16/2/2008 at Supa, as per Hindu vedic rites and rituals. After marriage, she was residing at Alephata with the respondent. She stated that, expenses of marriage of were born by her parents. .She was also given gold jewellery Rs./1,00,000/-by her parents. She has 2 children born out of wedlock. After marriage she resided along with respondent No.1 out of the Maharashtra. Respondent No.1 was working in a Military, so applicant is residing with him at various states of the country. Respondents treated her well for few days thereafter they started harassing her. She further stated that respondent no. 1 used to abuse and beat her by taking doubt on the character of the applicant. So respondent no.1 used suspect her character. She further stated that respondent no.4 and 5 also harassed applicant. But applicant bear all instances for her future life.

3. On 14.06.23 opponent thrown her out of the house along with children. At that time opponent took all the golden ornaments from the applicant. She lastly submitted that at present she is jobless and is residing at the mercy of her parents. On contrary opponent is retired military man and getting pension of Rs.30,000/-. Now ,

opponent is working in Bajaj company and get salary of Rs. 10,000/- per month. Opponents also have agricultural lands at village. Hence, applicant prayed for (a) protection order, (b) amount of Rs.10,000/- per month towards monthly interim maintenance for herself and children, (c) residence order (d) compensation order and other reliefs which court think fits.

4. The respondents has filed their say/reply to this application vide Exh.11. Respondent No.1 admitted the relationship with applicants. He denied all the allegations made by applicant against him and other respondents. He has further stated that, applicant is not behaved properly since beginning of the marriage. Applicant always demand the opponent expensive things. Applicant used to go outside and so always quarrel with respondent No.1. Applicant always took doubt on the character of respondent No.1. After the children, there is no change in the behavior of the applicant. Applicant had herself left the matrimonial house. It is denied by respondent no.01 that, he has ever caused harassment to the applicant and had not treated her in violent manner. He further submitted that, his parents caused paralysis, so he is suffering from financial crisis. Applicant is working in company at Supa, MIDC. Applicant gets salary of Rs.20000/- to 25000/- per month. Father of the applicant was retired army officer and so mother of applicant gets pension of Rs.35000/- to 40000/- per month. The mother of applicant has a building

at Parner which is given on rental basis. From that, she gets Rs.30000/- to 35000/- rent per month. The mother of applicant also has purchased land at Supa, MIDC which is also given on rental basis. The financial condition of parents of applicant is very good. Applicant has deserted the respondent without any sufficient cause. Respondent No.1 is ready to cohabit with the applicant. Respondent No.1 is not able to give the maintenance to the applicant. Hence, prayed for rejection of the application.

5. Considering the allegations made by the applicant in her application, following points arise for my determination for reasons recorded thereunder:-

Sr. No.	<u>Points</u>	<u>Findings</u>
1	Whether applicant prove that prima facie she was subjected to domestic violence by respondents?	...Yes.
2	Whether the applicant is entitled for the protection order?	...Yes.
3	Whether applicant is entitled for interim maintenance of Rs.10,000/- per month from respondent no. 01?	...Partly yes.
4	Whether applicant is entitled for residence order?	Yes.
5	Whether applicant is entitled for compensation as prayed?	No.
6	What order?	...As per final order

REASONS

AS TO POINT NO. 01 AND 02:

6. The marriage of applicant with respondent no. 01 was solemnized on 16/02/2008. This fact is admitted by respondent No.1. Applicant has stated various instances of domestic violence regarding physical and mental harassment, economic abuses etc. It prima facie appears from the averments in application supported by affidavit that she is residing separately from respondents, due to domestic violence caused to her. This fact is sufficient to establish that prima facie, applicant have been subjected to domestic violence, at the hands of respondents.

7. To substantiate the said fact, she has filed true copy of N.C. registered against the respondents. Moreover, respondent no. 01 is not maintaining the applicant this obviously would amount to economic abuse of applicant as contemplated in the definition of domestic violence in the Protection of Women from Domestic Violence Act. I hold that applicant is prima facie victim of Domestic Violence and as the protection of the applicant is need of an hour, it is necessary to pass the protection order. In turn, I answer point No.1 and 2 in the affirmative.

AS TO POINT NO. 03:-

8. Applicant prayed for maintenance of Rs.10000/- for herself and for her children. She submitted that she is not capable to maintain herself and her children. She is dependent on her parents. She stated this fact on affidavit.

Applicant stated in her application that opponent is retired military man and getting pension of Rs.30000/- per month. She also stated that respondent is working in Bajaj company and getting salary of Rs.20000/- per month. To support her contention, she has not filed on record any documentary evidence.

9. On the contrary, respondent No.1 submitted that applicant is working in company at Supa, MIDC. Applicant gets salary of Rs.20000/- to 25000/- per month. Father of the applicant was retired army officer and so mother of applicant gets pension of Rs.35000/- to 40000/- per month. The mother of applicant has a building at Parner which is given on rental basis. From that, she gets Rs.30000/- to 35000/- rent per month. The mother of applicant also has purchased land at Supa, MIDC which is also given on rental basis. But to support this contention, he has not filed any documentary evidence on record.

10. Applicant is the legally wedded wife of respondent no.01. Therefore, he is under legal and moral obligation to maintain her. Respondent No.1 fails to show that applicant is capable to maintain herself. Moreover, respondent no.01 cannot escape his liability to maintain his wife. This obviously would amount to economic abuse of applicant as contemplated in the definition of domestic violence in the Protection of Women from Domestic Violence Act. It would be therefore just and proper to grant interim maintenance

to the applicant u/s. 23 of the said Act.

11. The applicant has not filed any documentary evidence to show the income of respondent No.1. Hence inference as to the income of the respondent no.1 needs to be drawn . Respondent No.1 in his say admitted that he was working in a military. So, the inference can be drawn that respondent gets pension from the Central government. So, the inference can be drawn that respondent No.1 has received certain income per month. Considering the responsibilities of respondent no.1 and condition of the applicant in view of the above facts and circumstances and considering the status of the parties, needs of the applicants including medical expenses, interim maintenance of Rs. 2,000/- each to the applicant Nos.1 to 3 would serve the purpose. Admittedly, even after filing of this application, respondent made no provision of the maintenance of the applicant. Therefore, the benefit of this order has to be given to the applicant from the date of application. Hence, I answer point no. 03 partly affirmative.

AS TO POINT NO. 04:

12. Admittedly applicant is at present residing at her parental house due to the domestic violence caused to her. At this juncture it is pertinent to note that applicant has prayed for alternate accommodation from the respondents. Hence, considering the income of the

respondent no.1 it is just and proper to direct opponents to provide her alternate accommodation. Hence, it is just and proper to direct respondent No.1 to pay Rs.3000/- as a rent to the applicant. Hence, point no. 04 is answered in affirmative.

AS TO POINT NO.5 :-

13. The applicant has prayed for compensation. The compensation always granted after considering the quantum of mental agony suffered by the applicant due to the respondents. So the question as to entitlement of the compensation has to be decided after considering the facts and evidence of both the parties. Therefore, the factum about compensation is required to be considered at the time of final trial. Hence, I answer point No.5 in the negative.

AS TO POINT NO.6 :-

14. In view of above discussion, I pass the following order;

ORDER

1. Application is partly allowed.
2. Respondents are hereby directed not to cause any physical or mental harassment to the applicant.
3. Respondent No.1 is directed to pay Rs.2,000/- each (Rupees Two Thousand only) per month to the applicant Nos.1 to 3 towards interim maintenance from the date of this application till disposal of the main application.

4. Respondent No.1 is directed to pay Rs.3,000/- (Rupees Three Thousand only) per month towards rent amount to the applicant from the date of this order till disposal of the main application.
5. The copy of this order be given to parties free of cost.
6. Copy of this order be sent to the concerned Police Station and Protection Officer.

Date : 25.10.2024

Place : Parner.

(S. C. Salvi)

**Judicial Magistrate First Class,
Court No.3, Parner.**