



Cri. M. A. 209/2024
Shraddha Vs. Pavan
CNR-MHAK090019042024

ORDER AT EXH.05
(Passed on 03.11.2025)

This is an application filed by the applicant Shraddha Pavan Wankhade for interim monetary relief under sec.-23(2) of Protection of Women from Domestic Violence Act, 2005 (POWDV-Act) against respondent.

2. Read the application and say filed by respondent at Exh. -10.
3. Heard Ld. Counsels for both the parties.
4.
 - i) It is submitted by the applicant that; she is legally wedded wife of respondent No.1 and their marriage was solemnized on 15.05.2023. Respondent No. 2 is mother-in-law and No.-3 is father-in-law. After marriage she went to reside with the respondents and shared household with the respondents. For the first one months respondents treated her well but later, respondent No.1 started ill-treating her.
 - ii) Respondent No.2 started demanding money and respondent No.1 beat applicant resulting in physical and mental violence. Respondents used to threaten the applicant with death. Respondent No.1 to 3 have also verbally and physically abused parents of the applicant and also threatened them. Due to such domestic violence, applicant was forced to leave the company of the respondents and presently she is living with parents along with her child. Respondent No.-1 has neglected the applicant and her child.
 - iii) Applicant is unable to maintain herself and her child and living at mercy of her parents. Respondent No.1 is works as a labour and earns

Rs.15000/- per month and thus, Rs.8000/- be granted as interim monthly maintenance from respondent No.1.

5. Respondents admitted the relationship and the marriage, but denied other contents of application. They also denied any act of domestic violence at their hands. Respondents further submitted that, applicant used to quarrel on trivial issues with respondent No.2 & 3 and also used to verbally abuse respondent No.2. Applicant is not willing to reside with the respondents and seeking divorce. Respondent No.1 is working as a labourer and earns Rs.150/- per day. He also has responsibility of old age respondent No.2 to 4. He has no other source of income. He is ready to cohabit with the applicant and thus, application be rejected.

6. UNDISPUTED FACTS-

- i) Marriage between applicant and respondent No-1.
- ii) Nature of relationship between applicant and respondents.
- iii) Birth and custody of child with the applicant.
- iv) Applicant living separate from the respondents.

7. Considering the rival submissions of both the parties and perusing the records, following are the points for determination, to which findings are recorded with reasons.

| Sr. No. | POINTS FOR DETERMINATION | FINDINGS |
|---------|---|-------------|
| 1. | Does the applicant No.-1, prima-facie shows that she is subject to act of domestic violence by the respondents? | YES. |

| | | |
|----|--|---------------------------|
| 2. | Does the applicant No.-1, prima-facie shows that she is entitled for interim monetary relief from respondents as prayed? | PARTLY YES. |
| 3. | What order? | AS PER FINAL ORDER |

REASONS

8. The objective of granting interim monetary relief is, to ensure that, the dependent spouse is not reduced to destitution or vagrancy on account of failure of the marriage and not as a punishment to the other spouse. In order to avail interim monetary relief, applicant has to prima-facie show that she is an aggrieved person as defined in Sec 2(a) of POWDV Act-2005 and not able to maintain herself from her earnings, if any.

9. Section-23(1) of POWDV Act-2005, provides that, in any proceeding before him under this Act, the Magistrate may pass such interim order as he deems fit. The section (supra) and sec-125 of Cr. P. C. casts duty on the husband to provide monetary relief to the wife and minor children, when they are not able to maintain themselves. Whether, applicant was subjected to the domestic violence or not, is to be decided by trial on merit, which may take months or years. Meanwhile, it is necessary for the Court to decide whether applicant is entitled for interim monetary relief or not? If applicant discharges the prima-facie burden about domestic violence and her inability to maintain herself, then considering the life standard of the applicant and income of the non-applicant, Court can decide the quantum of the interim monetary relief.

AS TO POINT NO.-1

10. It is argued by the Ld. Counsel for the applicant that, respondents have subjected applicant to domestic violence. She has filed her affidavit in that regard. On contrary Ld. Counsel for the respondents argued that, respondents have never subjected the applicant to any act of domestic violence.

11. Perusal of record shows that, applicant has narrated various instances of domestic violence and her application is supported by an affidavit, stating that, respondents demanded money and due to not giving the same she was subjected to physical and mental violence. Filing of affidavit is prima-facie sufficient to establish the allegation of domestic violence and at this juncture and Court need not go to the merits. Thus, its prima-facie appears that applicant is subjected to domestic violence by the respondents. It is undisputed that, applicant is living separate from the respondent No.-1 and is having custody of the child. Applicant is living separate from the respondents and prima-facie it shows that, she was subjected to the acts of domestic violence. Hence, finding to this point is recorded in **affirmative**.

AS TO POINT NO.-2

12. Very basic requirement to avail the relief of interim monetary relief, is that, applicant have no sufficient means to maintain herself and is dependent on the non-applicant for her livelihood.

13. As per directions of Hon'ble Supreme Court, in Rajnesh V Neha. (2021) 2 SCC 324, this Court directed both the parties to file their affidavit of assets and liabilities. Applicant has filed her affidavit of 'assets

and liabilities' at Exh.-11 and that of respondent No.1 is at Exh.12.

14. It is argued by the Ld. Counsel for the applicants that, applicant have no source of income to maintain herself and her child and thus needs about Rs.8000/- per months for monthly expenses for her and the child. On contrary, Ld. Adv. for the respondent No.-1 argued that, he is in manual labourer and earns Rs.150/- per day and also has responsibility of age old parents. Applicant is educated and able bodied and thus, can earn for herself to maintain herself and child.

15. Perusal of Exh.11, shows that, general monthly expenses of applicant is shown as Rs.15000/- and she has shown monthly income of respondent as Rs.80000/- per month. Perusal of Exh.12, shows that, general monthly expenses of respondent No.1 is shown as Rs.4000/-. It is pertinent to note that, in application applicant avers that, respondent No.1 is labourer and earns Rs.500/- per day, but in Exh.11 she stated that respondent No.1 earns Rs.80,000/- pm. However, income of the respondent No.1 is not supported by any document. This all creates prima-facie doubt in version of the applicant as to how come a person earning Rs.500/- per day can earn Rs.80000/- pm. Thus, income of the respondent No.1 cannot be prima-facie believed from Exh.11. However, respondent No.1 is able bodied person and it is the duty of the husband to maintain his wife and children. When respondent No1. can incur his personal expenses and that of his elderly parents, then he must be earning more than what he has pleaded. Further, in today's world even a person engaged in manual labour earns Rs.300/- per day and thus, I am of view that, he earns sufficient to provide interim monetary relief to the applicant and the child.

16. As, to the capacity of the applicant to work and earns for herself, it settled position that, mere ability of the wife to earn, cannot deprive her from claiming maintenance form the husband. In case in hand, applicant is also having custody of child and is living with her parents, and thus prima-facie, possibility of working by applicant with taking care of child of 2 years age, appears to be remote. Thus, earning capacity of applicant cannot be considered by the court at this point.

17. When applicant have no source of income of her own, while deciding the quantum of the monetary relief, Court must consider financial capacity of the respondent No.-1, his reasonable expenses for own maintenance and that of his dependents and liabilities if any.

18. From Exh-11 and Exh-12, living standard of the applicants and that of respondent No.-1 prima-facie appears to be moderate. Presently applicant is living separately without incurring expenses for rent, thus at this stage it appears that, she does not require the same. Considering the present cost of moderate living and inflation, Rs.2000/- as interim monetary relief the applicant and her child together would be proper at this stage. Considering the income and liabilities of the respondent No.-1, Rs.2000/- would not cause more hardship to the respondent No.-1. Further, till date, out of the Court, non-applicant has not paid any amount applicants and thus it would be proper to allow the interim monetary relief from date of filing of the application. Considering the reasons discussed, finding to this point is recorded in **partly affirmative.**

AS POINT NO. 3.

19. Considering the findings of the point No. 1 and 2, in answer to this point, following is the order.

ORDER

- 1) Application is partly allowed.
- 2) Respondent No.-1 is hereby directed to provide monthly interim monetary relief of **Rs.2500/- (Rs. Two Thousand and Five Hundred only)** to the applicant from date of filing of this application.
- 3) Respondents are hereby directed to not to commit any act that would amount to domestic violence, against the applicant.
- 4) If the applicant, without any reasonable, sufficient, or lawful cause fails to adduce her evidence within three dates, appropriate order will be passed.
- 5) Copy of the order, free of cost be provided to the applicant.
- 6) Applicant to expedite.

Date- 03.11.2025

R. R. PAKADE
J.M.F.C., Court No.-2 Murtizapur.

CERTIFICATE

I affirm that the contents of this P.D.F. File Order/Judgment are same, word to word, as per the original Judgment/Order.

| | |
|--------------------------------------|---|
| Name of the Stenographer | S. R. Adhau |
| Name of the Court | Jt. Civil Judge (J.D.) & J.M.F.C., Murtizapur. |
| Date of Order /Judgment | 03.11.2025 |
| Order/Judgment Signed by the P.O. On | 03.11.2025 |
| Judgment/Order uploaded on | 04.11.2025 |