

MHAU090030372022



: ORDER BELOW EXH. 04 IN P.W.D.V.A No.59/2022:
(Anjali Tonage Vs. Parmeshwar Tonage and Ors.)

This is an application under Section 23 of the Protection of Women from Domestic Violence Act, 2005 (for short 'D. V. Act') seeking interim maintenance of Rs. 7,000/- per month to the applicant along with other reliefs as prayed in the application.

Facts of the applicant's case in brief are as follows :-

2. Applicant is the legally wedded wife of the respondent No. 1. Their marriage was solemnized on 04.02.2020 as per Hindu religion rites. Respondent Nos. 2 and 3 are mother-in-law and father-in-law of applicant respectively.

3. Applicant submitted that, after solemnization of marriage, respondents treated her well for one month, thereafter they subjected her to physical, mental harassment and cruelty. She further submitted that respondents subjected her to physical and verbal abuses. She further submitted that respondents subjected her to physical and verbal abuses on the count demand of Rs. 5 lacs to purchase Pick-up. Respondent Nos. 2 and 3 were instigating to respondent No. 1. Respondent No. 1 was assaulting the applicant on the count of her character. Respondents have forcibly driven out the applicant from the house.

4. Respondent No. 1 has not provided any kind of maintenance to applicant since their separation. Applicant has no

source of earning and is completely dependent upon mercy of parents of applicant. Thus, applicant claims Rs. 7,000/- per month for herself. She also claimed her original educational documents, home appliances i.e. LED T.V., Fridge, washing machine, double bed and *Stridhan* given to her in the wedding ceremony.

5. Respondent Nos. 1 to 3 duly appeared and filed their say below Exh.11 and denied entire contentions of the applicant. They contended that the applicant voluntarily left the matrimonial house. She is not willing to live with the respondents. The applicant had sent notice on 06/10/2021 to the respondent no.1 stating that she is not willing to reside with him as the said marriage was performed against her will. They further contended that applicant has filed the instant proceeding only to harass the respondents. Hence, they prayed to reject instant application.

6. Heard learned advocate Shri. Shinde for the applicant and learned advocate Shri. Niware for the respondents. Upon considering the contentions following point arose for my determination:

: POINTS FOR DETERMINATION :

Sr. No.	POINTS	FINDINGS
1.	Does the applicant prima-facie prove that respondents have committed an act of domestic violence ?	..Yes
2.	Whether applicant is entitled to get interim relief as prayed ?	..Partly Yes
3.	What order ?	..As per final order.

: REASONS :**AS TO POINT NO. 1:-**

7. As per the contentions it is apparent that marriage was solemnized on 04.02.2020. After the marriage applicant was residing with respondent Nos. 1 to 3 at her matrimonial house. But within that period respondent Nos. 1 to 3 tortured her mentally and physically. Both the parties have made allegations against each other. But in given set of circumstances I do not feel that any women will go to the extent of filing a case against husband or in laws unless there are compelling reasons for her and further no woman without any reasonable ground would leave her matrimonial house. Therefore, it prima-facie appears that there is some element of truth in the allegations made by the applicant. To sum up, in view of the aforesaid reasons, I am of the considered view that respondent Nos. 1 to 3 have subjected applicant to ill-treatment and she is victim of Domestic Violence. In turn, I answer point No. 1 ***in the affirmative***.

As to Point No. 2:-

8. Once it is established that applicant is victim of Domestic Violence, then naturally provision under section 23 comes into picture. This section empowers the Court to grant interim maintenance as a reason of the Domestic Violence.

9. With this, let us turn to the evidence regarding income of the parties. The applicant submitted that she is residing at her parental house. She has no source of income and she is unable to maintain herself. On the contrary, respondent No. 1 is working at Pune. The financial position of respondents is quite sound therefore, prayed to grant interim maintenance of Rs. 7,000/- per month to her

from respondent No. 1.

10. Further, the applicant has also prayed for the original educational documents, home appliances and *stridhan* from the respondents. But the applicant has not provided any specific details regarding the home appliances and *Stridhana* nor has she filed any receipts of the same. Hence, the prayer of applicant regarding home appliances and *Stridhana* from respondent is rejected. So far as the educational documents are concerned, respondent no.1 is bound to supply all the educational documents of the applicant to her.

11. Applicant has not brought on record any document to show the actual income of respondent No. 1. However, considering the facts and circumstances of the case, considering the income of respondent No. 1, number of dependent on the said income, I feel that an amount of Rs. 1,500/- p.m. for applicant will be fair enough towards her interim maintenance. The applicant is living with her parents and respondent No. 1 has not provided any maintenance to the applicant till date. Thus, it would be proper to grant such interim maintenance from the date of filing of main application. In turn, I proceed to pass the following order:

: O R D E R:

1. Application is partly allowed.
2. Respondent No. 1 is directed to pay maintenance of Rs. 1,500/- (Rupees One Thousand Five Hundred only) per month to the applicant from the date of present application i.e. from 20.10.2022 till the disposal of main application.

3. Respondent no.1 is directed to supply all the educational documents of the applicant to her by the next date.
4. A copy of this order shall be provided free of costs to parties, the respective police station where applicant and respondents are residing and Protection Officer.

(Dictated and pronounced in open Court)

Paithan,
Date: 24.04.2023

(A. C. Rokade)
Judicial Magistrate, First Class,
Paithan, Dist. Aurangabad.

CERTIFICATE

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

Name of Stenographer	: Tarannum Hameed Shaikh
Court	: J. M. F. C. & Jt. C.J.J.D.at Paithan.
Date	: 24.04.2023
Order signed by the	
Presiding Officer on	: 24.04.2023
Order uploaded on	: 26.04.2023