

MHBU070000552022



ORDER BELOW EXH.5

(Passed on 05.05.2022)

1. Present proceeding is filed U/s. 125 of Cr.P.C. and this application is moved for directing NA Nitesh to provide interim maintenance of Rs. 50,000/- per month to the applicants.
2. It is claimed that applicant Sanjivani is legally wedded wife of NA Nitesh and their marriage was solemnized on 04.03.2012. The applicant Harshal and Raunak were born out of said wedlock. It is alleged that since begaining NA Nitesh and his family members started mental and physical harassment of Sanjivani for the reason that her parents have not given sufficient dowry in the marriage. It is claimed that the NA Nitesh was addicted to liquor and ganza and he was in habit of beating applicant Sanjivani regularly. It is also alleged that NA Nitesh was demanding money from applicant Sanjivani and she was insisted to bring money from her parents. In the application, the applicants have narrated in detail as to how applicant Sanjivani was subjected to cruelty by the NA and how they were forced to take shelter at her parental place of applicant Sanjivani. Further, in the application, the applicants have given details of the income sources of NA Nitesh and on that basis, they have claimed interim maintenance of Rs. 50,000/- per month for them.
3. The NA has filed his say vide Exh 13 and contested the application. In the say, the NA has submitted that the applicants have made false allegation that he has subjected applicant Sanjivani to cruelty, though no such incident took place at any time. It is alleged applicant Sanjivani is arrogant and hot tempered and she was in habit of raising quarrel with him for no reason. In the Say(Exh.13), the NA has made various allegation against applicant Sanjivani and he has tried to show

that as applicant Sanjivani was not interested to cohabit with him, she has left the matrimonial house as per her own wish. NA Nitesh has further made allegation that applicant Sanjivani was maintaining illicit relationship with one of his relative and since this fact was disclosed, she has left his house and instituted this proceeding. Thus, in the Say (Exh.13) the NA has blamed applicant Sanjivani for the existence dispute. Further, the NA has also claimed that he can not provide separate maintenance to the applicants as he is maintaining his old aged parents and brother. Apart from this, it is also submitted that as applicant Sanjivani has left the matrimonial house along with applicant no 2 & 3 without any reasonable cause, he can not be ordered to provide interim maintenance to any of applicant. With such submission, it was prayed to reject the application.

4. Heard both sides.

5. Here, the applicants are claiming that applicant Sanjivani was subjected to cruelty by the NA in connection with unlawful demand of money. In the application, the applicants have given all the details and described the manner in which applicant Sanjivani was harassed mentally and physically by NA Nitesh. On such claim only, the applicants have sought interim maintenance from him. Further, on perusal of say filed vide Exh.13, it can be seen that NA Nitesh has denied all the allegations made by the applicants against him. On the contrary, the NA has alleged that applicant Sanjivani herself is responsible for the existing dispute. It is also claimed that the NA has not subjected applicant Sanjivani to harassment or cruelty at any time and whatever allegations have been made by her are false and baseless. With such claim and also on basis of incapability of NA Nitesh to pay interim maintenance, it was prayed to reject the application.

6. Now, after considering the statements made in the application and Say (Exh.13), it is clear that the NA has not specifically disputed his relationship with applicant Sanjivani and applicant no. 2 & 3. Further, here, both parties are blaming each other for existing dispute in between applicant Sanjivani and NA Nitesh. However, this being initial stage, it is very difficult to find out as to which party has spoken the truth and which has lied before the Court. This fact requires evidence for its determination. However, from the record it appears that since last five months, the applicants are residing separately from NA Nitesh. Further, it is not the claim of the NA that since that during the period of separation he has provided any kind of financial assistance to the applicants which would enable to them to maintain themselves. In absence of any such proof, we can presume that NA Nitesh has not provided any money to any of the applicants. Now, being husband of applicant Sanjivani and father of applicant no. 2 & 3, it was expected from NA Nitesh to provide money during the period of separation. However, as no such money has been provided to any of the applicants, we can say that NA Ajay has abused the applicants economically. Further, though NA Nitesh has showed his incapability to provide separate maintenance to applicants, he can not get exemption from his liability by making such sweeping statement.

7. Further, the applicants have claimed that NA Nitesh owns agricultural land and he derives annual income of Rs. 5 lac from it. Further the applicants have filed 7 x 12 extract of a field which shows that NA Nitesh owns 1.21HR of land. Now, if NA Nitesh owns agricultural land, he must be earning something from it. Further, in the Say Exh.13 NA Nitesh has admitted that he is doing labour work for his livelihood. Now, considering present days economic condition, it is possible for a able

bodied person to earn Rs. 300/- to 400/- per day i.e. Rs.9,000/- to 10,000/- per month by doing labour Job. These facts prima-facie shows that NA Nitesh can provide separate maintenance to the applicants and there is no substance in his claim that he is incapable of paying separate maintenance.

8. Thus, considering above observation, it can be said that the applicants are entitled for claiming interim maintenance from NA Nitesh and NA Nitesh can provide it to them. Further, considering present days inflation rate, amount of Rs. 2,000/- per month to applicant Sanjivani, amount of Rs. 1,000/- per month to applicant Harshal and Rs. 1,000/- per month applicant Raunak, towards interim maintenance would be sufficient. Further, above amount also seems to be manageable for NA Nitesh and he can easily pay aforesaid amount to the applicants. Hence, considering above observation, I am passing following order:-

ORDER

1. Application Exh. 5 is partly allowed.
2. The NA Nitesh is hereby directed to provide interim maintenance of Rs. 2,000/- per month to applicant Sanjivani, amount of Rs. 1,000/- per month to applicant Harshal and Rs. 1,000/- per month applicant Raunak, since the date of filing of this application.
3. Applicant Sanjivani is hereby authorized to receive the interim maintenance amount ordered in favour of applicant Harshal and Raunak.
4. Parties are directed proceed with the matter.

Sd/-

(J.R. Ghadge)

Judicial Magistrate First Class,
1st Court, Shegaon, Dist. Buldana

Date : 05.05.2022.

I *K.S. Deshmukh*, Stenographer of C.J.J.D. & J.M.F.C. Court No.1, Shegaon affirm that the contents of this P.D.F. file order is correct word to word as per the Original Order.