

ORDER BELOW EXH.11  
(12-03-2026)

The present application is filed by applicants under Section 23 of the Protection of Women from Domestic Violence Act, for grant of interim order of maintenance of Rs.5,000/- each per month to the applicants.

2. It was submitted by the applicant no.1 that respondent no.1 is her husband and other respondents are relatives of the respondent no.1. It is submitted that the applicant's marriage with the respondent no.1 on 22-04-2021. It is submitted that the applicant no.1 and the respondent no.1 were blessed with the applicant no.2. The applicant has no source of income. The applicant is residing with her parents and needs Rs.5,000/- each per month expenses during pendency of the main application. It is submitted that the respondents have avoided to take care of the applicant. Moreover, due to act of domestic violence she is residing separately from the respondent no.1. It is submitted that the applicant had been subjected to physical and mental cruelty by the respondents. It is submitted that the respondent no.1 is Kotwal and can earn handsome amount can easily pay an amount of Rs. 5,000/- each towards maintenance. **Hence, she prayed for grant of maintenance of Rs. 5,000/- each per month.**

3. It is imperative to note that the respondents appeared in the matter and filed reply. The respondents opposed the application and submit that it is true that respondent no.1 is Kotwal. It is submitted that applicant has filed false case against the respondents. By filing detailed reply the respondents have denied each and every allegation. Lastly, it is submitted that the applicant is at wrong side and due to her parents instigation, she is residing separately. **It is submitted that the applicant no.1 is working at**

**Thriveni Eathmovers Ltd. Company and earning. Hence, application be rejected.**

4. **Heard**, Sau. Jainwar for the applicant. Heard, Shri. Bogami for the respondents at length.

5. **It is imperative to note that respondent no.1 has not filed affidavit respect of assets and liabilities as per the Apex Court direction passed in Rajenesh...-vs-...Neha<sup>1</sup>. On the other hand, the applicant has filed affidavit in about her assets and liabilities at Exh.10.**

6. It is pertinent to note that the parties admitted the marital relation of the applicant and the respondent no.1. Their marriage is still in existence. It is admitted by the respondent no.1 that the respondent is Kotwal by profession. The applicant on affidavit stated that the acts constituted domestic violence against the respondent.

7. In the case in hand, evidence is yet to be led by the parties and it is not finally decided i.e. it is in primary stage but the domestic violence includes Economic Abuse. It is pertinent to note that as per section 2(k) "**monetary relief**" means the compensation which the Magistrate may order the respondent to pay to the aggrieved person, **at any stage during the hearing of an application** seeking any relief under this Act, to meet the expenses incurred and the losses suffered by the aggrieved person as a result of the domestic violence. It is imperative to note that "**deprivation of all or any economic or financial resources**" to which the aggrieved person is entitled under any law or custom whether payable under an order of a court or otherwise or which the aggrieved person requires out of necessity including, but not limited to, house

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<sup>1</sup>(2021) 2 SCC 324

hold necessities for the aggrieved person and her children, if any, stridhan, property, jointly or separately owned by the aggrieved person, payment of rental related to the shared house hold and maintenance”

8. **It is admitted fact that presently**, applicant is **residing separately** from the respondents and basically from the respondent no.1. The applicant on affidavit has stated act of domestic violence and that act constitutes domestic violence against the applicant. Term **‘domestic violence’** as defined u/s 3 of the Protection Of Women From Domestic Violence Act, 2005 **is not limited to physical cruelty only but is also includes mental cruelty and economical abuse**. Omission on the part of husband to look after his wife depriving her of her economic basis also tantamount to domestic violence.

9. In **Rahul Ramesh Soni Vs. Nikita Rahul Soni**<sup>2</sup>, the Hon’ble Rajasthan High Court has observed that at the time of deciding application seeking interim maintenance under Section 23 of the DV Act, Magistrate has to prima facie satisfy that the respondent is committing, or has committed an act of domestic violence or that there is a likelihood that the respondent may commit an act of domestic violence, he may grant an ex parte order on the basis of the affidavit in such form, as may be prescribed, of the aggrieved person under section 18, section 19, section 20, section 21 or, as the case may be, section 22 against the respondent. From the perusal of the language of Section 23 of the Protection of Women from Domestic Violence Act, 2005, it is clear that while deciding an application seeking interim relief Magistrate is even not bound to hear the opposite party.

10. In the case in hand, it is **admitted that the applicant is legally wedded wife of the respondent** and the respondent is Kotwal. It is the

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<sup>2</sup> (2017(3) Criminal Court Cases 114

bounded duty of respondent to maintain the applicant. It is pertinent to note that as the application is supported by affidavit and main application will take time to decide.

11. It is pertinent to note that the applicant being wife has every right to get economic support from the respondent no.1. Moreover, the respondent no.1 can not run or space by saying that the applicant is residing separately on own accord with her parents and working women due to which she is not entitled for maintenance. It is pertinent to note that the respondent is husband has file not filed affidavit for and about her income.

12. I have gone through the application and record. It appears that the application is filed in the year 2023. Since then the respondent no.1 being husband of the applicant no.1 and father of the applicant no.2 has not made any arrangement for food and shelter of the applicants. **It was responsibility of the respondent no.1 to show his real income before the Court in order to enable the court to decide the application on the basis of real income of the parties but instead of showing his own income the respondent no,1 is trying to show and established the applicant no.1 is working in private company and not entitled for maintenance.** It is pertinent to note that entire record shows that the respondent no.1 is avoiding his responsibility to maintain the applicants. **Considering this**, it is necessary to provide some monetary relief to the applicant as the respondent being Kotwal and able bodied person appears to have sufficient source of income to maintain his wife and wants to avoid liability.

13. It is pertinent to note that now a days even an unskilled labour earns Rs. 500/- per day in such circumstances it is not digestible that the amount of Rs.5,000/- each is huge and the respondent can not pay the same.

Therefore, considering the facts, it will be proper to grant maintenance to the applicant till the disposal of the application. Moreover, the applicants being wife and daughter has every right to live with the standard maintain by her husband. In view of the above discussion an amount of Rs.3000/-each is affordable by the respondent no.1. It is imperative to note that the maintenance must be awarded from the date on which the application came to be filed. The right to claim maintenance must date back to the date of filing the application since the period during which the maintenance proceedings remained pending is not within the control of the applicant. Hence, I proceed to pass the following order.

**.O R D E R.**

- 1] The respondent no.1 is directed to pay maintenance of Rs.3,000/- each per month to the applicants from date of this application till the decision of main application.
- 2] The respondents are restrained from creating any disturbance in life of applicants.
- 3] Copy of this order be supplied to both the parties Free of Costs.

AHERI  
Date- 12-03-2026.

(S.M.H. Shahid)  
Judicial Magistrate First Class  
**AHERI**