

MHKO030047972021

**PWDVA Application No.108/2021.**

Pranita Rohit Magdum

Versus

Rohit Bhagwan Magdum

Order below exhibit 11.

This is an application under section 18 of Protection of Women from Domestic Violence Act, 2005 seeking protection order against non-applicants. Non-applicants appeared in the proceedings and filed their say below this application and strongly objected the application.

02. The applicant submitted that non-applicant No.1 is her husband while others are her in-laws. Applicant No.2 is their child born out of their wedlock. Since last six month non-applicant No.1 is harassing physically, mentally and financially. They are also threatening the applicant not to complain about such harassment else they will kill her. Non-applicant is addicted to various strange addictions, is a hooligan, restrains the way of applicant and her family members armed with weapons and also threatens to their life using force on them. He also irritates the applicant by making frequent phone calls threatening her and her son of dire consequences. Hence, the applicant filed complaints with Rajarampuri Police Station Women Cell and Women Cell at the police Head Quarter, Kolhapur. Despite these complaints the non-applicant No.1 is continuing to harass them. Hence, the applicant filed this

application seeking protection order. On the contrary, the non applicant filed say below this application denying the entire contentions in the application. It is contended that the application is itself is not clear about what reliefs sought. Hence, prayed for rejection.

03. Perused the application, say and record of the case. Heard learned advocate for applicants and non-applicants. It is argued by the advocate for applicant that in view of section 18 of the D V Act applicant is seeking protection order. In support of his arguments the advocate for applicant relied on judgment of *Hon'ble High Court Bombay* in case of *Ishpal Singh Kahai v. Ramanjit Kahai* in *WP No.576 of 2011* wherein the Hon'ble High Court upheld the orders of lower court granting residence and protective orders. On the contrary the advocate for non-applicant argued that both the parties residing separately. The applicant not specifically quoted any incidence showing that non-applicant made any of the act as submitted by the applicant. The relief claimed by the applicant is evasive. The non applicant No.1 is father of applicant No.1. Therefore, he cannot be restrained by order of protection.

04. The advocate for non-applicant contended that the facts of case cited by the applicant and present case are different. In the case cited supra the aggrieved woman by way of residence order resided in the house of husband and therefore, protective orders issued by the Court. In the present matter applicants and non applicants residing separately. Therefore, advocate for non applicant

contended that the case law cited supra is not applicable to the case in hand.

05. It is pertinent to note that, the applicant is claiming protective orders but in the prayer of this application applicant not specifically claimed what kind of protective orders she expects from the Court. It is important to reproduce herebelow in the vernacular what exactly the applicant has prayed :

५)ब) “अर्जदार यांचा मुळ अर्ज गुणदोषांवर चालून सदरकामी निकाल होणेस बराच कालावधी होणार आहे. त्याकारणे अर्जदार यांनी सदरचा अंतरीम संरक्षणाचा अर्ज तात्काळ चालवून वि.प. यांचे विरुद्ध एकतर्फी आदेश होवून यातील अर्जदार व त्याचा मुलगा कु. आरव आणि त्यांचे माहेरील कुटुंबियांना वि.प. यांचे पासून मुळ अर्जाच्या निकालापावेतो संरक्षण देणेत यावे.”

The above said prayer of the applicant is not clear. The section 18 of D V Act provides for prohibitory orders against respondent from committing domestic violence, aiding abating acts of domestic violence, entering the place of employment of aggrieved person, attempting to communicate in any form, alienating any asset operating bank locker/bank accounts, causing violence to the dependents, committing any other act specified. In view of above prayer of the applicant, the applicant specifically has not claimed prohibitory orders as provided in Section 18 of the D. V. Act. Furthermore, the applicant has not quoted the specific incidence which shows the non-applicant No.1 causing such acts which required to be prohibited.

06. It is needless to say that, if non applicant No.1 indulge

himself in to any act prohibited by criminal law, then certainly he will face the prosecution. It is also seen from the record that the applicant filed various complaints against non-applicant No.1 with the police and the police also have registered NC's regarding such complaints. If it is grievance of the applicant that police has not taking action according to her complaint; then she has to adopt appropriate proceedings to initiate prosecution. If, the evasive prayers of applicant is granted then it would amounts to blanket orders. Considering these facts and circumstances, application liable to be rejected. In result, the following order is passed :

ORDER

The application is rejected.

Sd/-

Atul A. Kore

7th Judicial Magistrate F.C., Kolhapur.

Place: Kolhapur.

Date: 29/10/2021.