


MHKO030117332023 	PWDVA No. 204/2023 Sou. Sharmila Arfaaj Dange. Vs. Arfaaj Gultaaj Dange & Ors.
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ORDER BELOW EXH. 05

(Passed on 20th day of August, 2025)

1. This is an application preferred by the applicant seeking interim maintenance under the provisions of Section 23 r/w. Section 20 of the Protection of Women from Domestic Violence Act, 2005. (hereinafter referred to as the "DV Act" for the sake of brevity).

SUBMISSIONS OF THE APPLICANT:

2. The applicant is the legally wedded wife of the respondent no. 1. The marriage of the applicant and the respondent no. 1 was solemnized on 24/09/2020 at Uchgaon, Tal. Karveer, Dist. Kolhapur, as per the Muslim rites and customs. It is the second marriage of the applicant as well as the respondent no. 1. At the time of their marriage, the applicant's parents had incurred expenses of Rs. 3,00,000/-, and had also given 1.5 *tolas* of gold, double bed, mattress, and other household items. After marriage, she went to her matrimonial home for cohabitation with the respondents. However, after

their marriage, the respondents started making demand of money for buying household items and furniture from the applicant.

3. The applicant further submitted that the respondent no. 1 is an alcoholic person, and had physically and mentally harassed her. The respondent no. 1 has also beaten her on 5 to 6 occasions. As the applicant was unable to fulfill the monetary demand of the respondents, she was driven out of her matrimonial house by the respondents. Therefore, currently she is forced to live at her parents' house. The economic condition of her parents is not sound. The respondent no. 1 had deserted the applicant without any just cause. The respondent no. 1 owns a furniture shop and a 2-wheeler garage at Miraj, Sangli, which yields a monthly income of more than Rs. 50,000/-.

4. It is further submitted by the applicant that the respondent no. 1 had filed a petition before the Hon'ble Family Court, Sangli, seeking declaration of divorce obtained by way of pronouncement of triple talaq. However, the same was dismissed and compensation of Rs. 20,000/- was granted to the applicant. Also, after deserting the applicant, the respondent no. 1 has not paid a single penny since 09/08/2023. Except, the applicant, the respondent no. 1 has no other person to maintain. Therefore, she prayed to grant interim maintenance of Rs. 15,000/- (Rupees

Fifteen Thousand only) per month, from the date of application.

CONTENTIONS OF THE RESPONDENTS:

5. The respondent no. 1 has objected the present application by filing his say vide Exh.08. Except the marriage and relationship, he has denied other contents of the present application. He contended that the marriage expenses were borne by him. No child was begotten out of the said marriage. After their marriage, the applicant used to taunt the respondent no. 1 on his poor financial condition. Further she told him that she was not willing to marry him. The respondent no. 1 had already disclosed about the fact that this is his second marriage with her before their marriage. The applicant merely stayed for 10-15 days at the matrimonial house, and thereafter, she voluntarily left and went to her parents' house. In the said period, no complaint was filed by her to show that she was subjected to physical violence. She threatened to file case against him. The respondent no. 1 did many attempts for re-conciliation, but the applicant only does not want to cohabit with him. Hence, he prayed to reject the present application with costs.

6. Heard the learned advocate for the applicant and the learned Advocate for the respondent no. 1. Perused the record, the documents filed by the applicant, present application and the say of respondent no. 1 vide

Exh.08. The points for determination along with my findings thereon are as under-

Sr. No	Points for Determination	Findings
1.	Whether the applicant was <i>prima facie</i> subjected to domestic violence?	Yes
2.	Whether the applicant is entitled to get maintenance of Rs.15,000/-, as prayed?	Partly yes
3.	What Order?	The application is partly allowed

As to point no. 1 and 2-

7. Since both the points are inter-connected, they are being discussed together. Under section 2(a) of the DV Act, an aggrieved person means any woman who is, or has been, in a domestic relationship with the respondent and who alleges to have been subjected to any act of domestic violence by the respondent.

8. The applicant has produced their certificate of registration of marriage, (Exh.3/2), wedding photographs (Exh.3/2 and 3), and bio-data given by respondent no. 1 to the applicant prior to marriage (Exh.13/1), to show that the applicant and the respondent no. 1 are having a

domestic relationship. In the present case, the respondent no. 1 has admitted his marriage with the applicant, and that she shared a common household after marriage. Therefore, it is proved that the applicant is in a domestic relationship with the respondent. Indisputably the parties are in domestic relationship.

9. The applicant has also set out the circumstances about the domestic violence in her application which came to be specifically denied by the respondent no. 1. The questions, whether the respondents have subjected the applicant to domestic violence or not, and whether she has voluntarily left the company of the respondent no. 1, are to be decided after giving opportunity to lead evidence to both the sides. The applicant has already stated and has also set out the circumstances in application on affidavit about domestic violence. She has also produced the certified copy of complaint filed by her before S. P. Kolhapur (Exh.13/10). As such, considering all the circumstances, the applicant has made out a *prima facie* case that the respondents subjected her to domestic violence.

10. The learned advocate for the applicant argued that, the respondent no. 1, being husband of applicant, cannot flee away from his responsibility to maintain her. He is under moral and legal obligation to maintain her. She further submitted that the applicant has made out a *prima facie* case that she was subjected to domestic

violence by the respondent. The applicant was being harassed mentally and physically by the respondents. The applicant further submitted that the respondent no. 1 owns a furniture shop and a garage, and gets an income of Rs. 50,000/- per month. The respondent no. 2 looks after the said business along with the respondent no. 1. No one is dependent upon respondent no. 1 except the applicant. Therefore, she is entitled for interim maintenance as prayed. On the contrary, the Ld. Advocate for the respondent no. 1 submitted that after marriage, the applicant only stayed for 10 to 15 days at her matrimonial house, and thereafter, she voluntarily left the same. Therefore, he argued that the applicant is not entitled to get interim maintenance.

11. While determining the quantum of interim maintenance or maintenance, the Hon'ble Supreme Court in the case of **Rajnish v. Neha & Anr., (2021) 2 SCC 324**, has led down certain guidelines. As per the said guidelines while determining the quantum of maintenance, the status of the parties, reasonable needs of wife, educational qualifications of the applicant, source of income of the has to be considered. Further financial capacity and qualification of the husband, his actual income, his reasonable expenses and expenses towards dependents should be taken into consideration.

12. Heard the learned advocates for the applicant and the respondent no. 1. Perused the record and

affidavits of assets and liabilities filed by the applicant and respondent no. 1 vide Exh.05 and 09, respectively. I have gone through the documents filed by the applicant. The applicant has made out a *prima facie* case that the respondents subjected her to domestic violence and therefore she is entitled for interim maintenance. So far as the entitlement of interim maintenance is concerned, the respondent no. 1, being under legal and moral obligation, is liable to pay interim maintenance to the applicant. As per the affidavit of the applicant, the educational qualification of respondent no. 1 is 10th passed, and owns a Furniture shop and a garage. He has a monthly income of more than Rs. 50,000/-. He also lives in a house owned by him, and nobody is dependent upon him, except the applicant. To show the same, the applicant has produced photographs of the house, garage and furniture shop belonging to the respondent no. 1 (Exh.13/2 to 6).

13. On the contrary, as per the affidavit of assets and liabilities of the respondent no. 1 (Exh.09), he is 9th passed and is a daily-wage worker and earns a monthly income of Rs. 7000/-. He stated that his monthly expense is Rs. 3000/- only. He has stated that his mother, father and grandmother are dependent upon him. The respondent no. 1 has uttered nothing about his furniture shop or garage. There are certain inconsistencies in the said affidavit and the say filed by the respondent no. 1.

14. The Hon'ble Supreme Court in the case of **Rajnesh v. Neha & Anr., (2021) 2 SCC 324**, also held that onus is on the husband to establish with necessary material that there are sufficient grounds to show that he is unable to maintain and discharge his legal obligation for reasons beyond his control, and that he is not an able-bodied person. If the husband does not disclose the exact amount of his income, an adverse inference may be drawn by the Court. The amount of maintenance should neither be extravagant nor meager. It was also held that an able-bodied husband is presumed to have sufficient earning capacity to support his wife, even without specific evidence of income. In the present case, the respondent no. 1 has mentioned that he has to bear his monthly expense of Rs. 3,000/-, and has loan of Rs. 7.5 lakhs to repay, but failed to show how he bears the said expenses. He has not produced his bank account statement to show his financial capacity. Moreover, as per the respondent no. 1, the applicant does tailor-work and other home-based business, and earns a monthly income of Rs. 7000/-. However, he did not produce any material to show that the applicant is currently working. Therefore, the respondent no. 1 being an able-bodied husband is liable to maintain the applicant.

15. Taking into consideration the above discussion and considering the guidelines given by Hon'ble Supreme Court for granting interim maintenance, in my opinion, the applicant is entitled to interim maintenance

of Rs. 3,000/- (Rupees Three Thousand only) per month from the date of the application. Therefore, I answer point no.1 in the affirmative and point no.2 as partly affirmative.

As to point no. 3-

16. As I have given my findings as to point no. 1 in the affirmative and the point no. 2 as partly affirmative, the application needs to be partly allowed. Hence, I proceed to pass the following order-

ORDER

- 1.** The application vide Exh.05 is partly allowed.
- 2.** The respondent no. 1 is directed to pay an amount of Rs. 3,000/- (Rupees Three Thousand Only) per month towards interim maintenance to the applicant from the date of the application till final decision of the case vide section 23 read with section 20 of the Protection of Women from Domestic Violence Act, 2005.
- 3.** A copy of this order be given free of cost to the applicant and the respondents vide section 24 of the Protection of Women from Domestic Violence Act, 2005.

Place: Kolhapur
Date: 20/08/2025

(H. M. Patel)
Judicial Magistrate First Class
(Court No. 15), Kolhapur.