

MHKO050044282019

**ORDER PASSED BELOW EXH.5 IN PWDVA NO. 70/2019****(Komal Bharat Jadhav & others / Bharat Sukumar Jadhav & others)**

1. This is an application for interim reliefs under Section 23 of the Protection of Women from Domestic Violence Act, 2005.

2. Applicant has stated that, she is married with Respondent No.1 on 11/2/2016 at Pattankodoli as per Maratha rites and rituals. Respondent No.2 and 3 are her father-in-law and mother-in-law respectively. Respondent No.4 and 5 are her brother-in-law respectively. Respondent No.6 is maternal uncle of Respondent No.1. Applicant No.2 Swaranjali born out of wedlock of Applicant No.1 and Respondent No.1. Her father gave ½ tola golden tops, 1 tola mani-mangalsutra, 3 tola ganthan, golden ring of ½ tola, ear ring of ½ tola to her in the marriage. They gave 1 ¼ tola golden ring, ½ tola gold ring to Respondent No.1 in marriage. Moreover, they gave silver ornaments to her. Respondents are rich persons. Her parents borne marriage expenses by taking loan. They have given all the household articles at the time of marriage. After marriage, respondent No.1 kept her in house at Gadnudshingi and not in ancestral house at Hupari. At that time, respondent No.1 was residing separately from Respondent No.2 to 5. For some days, respondents live at house in Gadnudshingi with them. For some days, they cohabited merrily. Thereafter, Respondent No.1 started quarreling on trifle grounds, abused

her, mentally harassed her, beaten her, thrown her out of the house at night. He is rich person. He is having business in gold and silver. He used to go out of station for his business. He is suspecting on her character. He has asked to bring money from her parental house. Respondent No.1 has purchased several properties benami, in the name of his relatives. He has purchased property in Gadmodshingi in the name of his maternal uncle. Applicant often used to tell him that she wants to reside at Hupari. However, he refused. Before marriage, he has told her parents that they are residing in RCC 3 storeyed house at Gadmodshingi unitedly. Financial condition of her parents is weak. He physically and mentally harassed her and he forced her to live at Gadmodshingi. Applicant tried to console Respondent No.1 through mediators and relatives namely Haridas Govind Talaskar, Anandi Haridas Talaskar, Dhanpal Dhula Shirguppe. They went to his house at Hupari. At that time, Respondents were not ready to cohabit her. She again went to Gadmodshingi. However, there is no change in behaviour of Respondent No.1. He used to go for four days out of the house. He used to lock the gate, when he was leaving the house. He never provided household articles, medicines to her. He even not bothered to enquire about her on phone. So, applicant has to remain without food. When he returned to home he used to beat her and he has threatened her parents that he will kill her. When she refused to take contraceptives, he has beaten her on head and blood was oozing from her wound. He used to talk in filthy language with her parents. When she was pregnant, he never taken her to hospital. He tried to hang her. So she came under mental pressure. During her pregnancy, she went to her parental house for 2-3 days on account of fair at Pattankodoli. After 2-3 days, her brother taken her to matrimonial house at Pattankodoli at 7.00 a.m. However, Respondent No.1 has not taken her in the house. He kept

her out of the house till afternoon. At that time she was pregnant for 8 months. Respondent No.1 has thrown her medical file out of the house and pushed her on staircase. He has given 20 rupees and asked her to go to her parental house. Respondents abused the applicant and her parents. She return to the matrimonial house though she was pregnant at the time of Diwali. Since then applicant is residing at her parental house. Applicant No.2 Swaranjali was born on 1/12/2016 out of the wedlock. Respondent No.1 harassed applicant No.2 also. Respondent No.1 mentally and physically harassed applicant. He beat her brutally. Applicant tried to console respondent through her parents and mediator. However in vain. At the time of marriage of brother of applicant No.1 respondent No.1 demanded golden ornaments from her parents and beaten her for that demand. On 6/5/2019 he has beaten her and forcibly taken applicant No.2 from her custody. He has also taken forcibly taken golden ornaments and mobile from her. Respondent has locked the gate before leaving for marriage. On 7/5/2019 his uncle came and left applicant No.2 with applicant No.1. Respondent never enquired about applicants. Applicants are residing in her parental house at Pattankodoli. Respondent shall maintain applicants. He is trading in gold and silver. He is earning monthly income of one lakh. He is lending money to needy people. He has ancestral house property at Hupari. He earns 50000- 60000/- from money lending business. He has purchased many properties benami in the name of other persons. He is financially sound and he is rich person. He is living lavish life. On these grounds prayed for residence order or house rent Rs.5000/- per month under Section 17 of PWDVA, 2005, protection order under Section 18 of PWDVA, 2005, compensation under Section 19 and monetary order under Section 20 of PWDVA 2005 from the respondent.

3. Respondent No.1 has resisted the application by filing say at exh.15. He has denied all the allegations against him. He has contended that, he is residing separately from other respondents at Gadmudshingi. Applicant wants to reside as per her wish. They have married in simple manner (Yadi pe Shadi). He is of religious and innocent nature. Applicant is highly educated girl. She used to abuse him, quarrel on trifle grounds, threatened to commit suicide. She is oddment in nature. Her father used to tell her to take Rs.10,00,000/- or construct house otherwise she has threatened to commit second marriage. She is mentally harassing him. She used to go her parental house for 2-3 months. Due to her neglect applicant No.2 had a shock of cooker on her backside. Applicant and her parents never gave golden ornaments at the time of marriage. On the contrary respondent No.1 has given manimangalsutra and silver paijan, mekhla and masoli , Lakshmi Har at the time of marriage to applicant No.1. She has taken away all the golden and silver ornaments while leaving matrimonial house. She is serving as teacher in private school at Pattankodoli and she is earning Rs.10,000/- per month. She makes silver paijan in the house. She is able to maintain herself. Applicant has deserted him without sufficient cause. Respondent No.1 has filed HMP No. 22/2020 for restitution of conjugal rights in Hon'ble CJSD, Ichalkaranji and it is pending. He is working as labourer and earning 100-150 per day. His mother had heart surgery. His father is suffering from diabetis and B.P. Applicant is rich person. Application is not maintainable. On these grounds he prayed to reject the application.

4. Respondent No.2 to 5 have resisted the application by filing say at exh.16. They have denied all the allegations against them. They have contended that, they are not residing with applicant and respondent

No.1. Applicant and respondent No.1 married in the year 2014. Since the year 2014 she is residing at Gadmudshingi after marriage. They are residing in the house of Respondent No.6 on rental basis. Respondent No.3 had heart surgery in the year 2014. Respondent No.2 is suffering from diabetis and B.P. Respondent No.1 is doing separate business from respondent No.2 to 5. Respondent No.2 to 5 never harass applicants physically and mentally. On these grounds they prayed to reject the application.

5. Perused the entire record of case. Heard, learned advocates for both the parties.

6. Applicant has stated the contents of application on oath. She has produced list of Yadi of marriage (Exh.3/1), Photos of marriage (Exh.3/2), Birth certificate of applicant No.2 (Exh.3/3), 7/12 extract of Gat No. 523 situated at Hupari in the name of Respondent No.2 (Exh.20/1), 7/12 extract of Gat No. 529 situated at Hupari in the name of Respondent No.2 (Exh.20/2), 7/12 extract of Gat No. 867 situated at Hupari in the name of Respondent No.2 (Exh.20/3), 7/12 extract of Gat No. 1131 situated at Hupari in the name of Respondent No.2 (Exh.20/4), 7/12 extract of Gat No. 1132 situated at Hupari in the name of Respondent No.2 (Exh.20/5), 7/12 extract of Gat No. 1234 situated at Hupari in the name of Respondent No.2 (Exh.20/6), 7/12 extract of Gat No. 521 situated at Hupari in the name of Respondent No.2 (Exh.20/7), Xerox copy of pass-book in the name of applicant No.1 of Bank of Maharashtra, Hupari (exh.20/8), Account extract loan account of applicant in Shree paisafund Shetki Sah. Bank Ltd., Hupari from 18/7/2018 to 1/2/2020 (Exh.20/9), pass-book in the name of applicant

No.1 of Shree Paisafund Shetki Sah. Bank Ltd., Hupari (exh.20/10), Account extract of from 5/1/2019 to 3/1/2020 (Exh.20/11).

7. Opponents have admitted relations with applicants. However, they have denied the allegations. Opponent No.1 has filed HMP No.22/2020 in Hon'ble C.J.S.D. Ichalkaranji (Exh.18/1), application of opponent No.1 for salary slip of applicant No.1 dtd. 3/1/2020 (Exh.18/2), Acknowledgment Receipt dtd. 7/1/2020 (exh. 18/3), photograph of applicant No.2's injury (Exh.18/4).

8. Domestic Violence is a human right issue and serious deterrent to development. The Protection of Women from Domestic Violence Act, 2005 has been enacted to keep the rights guaranteed under Article 14, 15, 21 of the Constitution and to provide civil remedy to protect the woman from being victims of domestic violence and to prevent the occurrence of domestic violence in the society. Section 23 of the Act, provides for grant of interim ex-parte order on the basis of affidavit of aggrieved party.

9. In the present case, the contents of the application are supported by affidavit of applicant No.1. It is pertinent to note that, applicant is residing with her daughter at her parental house since 6/5/2019. On 7/5/2019 his uncle came and left applicant No.2 with applicant No.1. Thus, it can be prima facie inferred that applicant was subjected to domestic violence.

10. Opponent No.1 has not provided for food, clothing, shelter, education and health of applicants since 7/5/2019. Opponent No.1 has

legal and ethical duty to maintain the applicants. Though, applicant has stated that, opponent is doing business in gold and silver. Considering the prices of essential articles, status of the parties, their financial capacity, it would be just and proper to grant Rs.2000/- per month as maintenance to applicant No.1 and Rs.1000/- per month as maintenance to applicant No.2 from the date of application and house rent of Rs.1000/- per month from the date of application. The prayer for grant of compensation of Rs.2,00,000/- can be considered after recording of evidence. From the allegations it is necessary to protect the rights of applicants. Therefore, it would be just and proper to give protection order to applicant by prohibiting opponents from committing any act of domestic violence. Therefore, I proceed to pass following order -

ORDER

1. Application Exh.5 is partly allowed.
2. Opponent No.1 shall pay Rs.2000/- per month to applicant No.1 and Rs.1000/- per month to applicant No.2 as maintenance from the date of application i.e. from 24/9/2019 till the decision of the main application.
3. Opponent No.1 shall pay Rs.1000/- per month house rent to applicants from the date of application i.e. from 24/9/2019 till the decision of the main application.
4. Opponents are prohibited from committing any act of domestic violence against applicants till the decision of the main application under Section 18-A of PWDVA Act, 2005.

Ichalkaranji.

Date : 18/2/2020.

(G. A. Karajgar)
Judicial Magistrate First Class,
Court No.6, Ichalkaranji.

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

Name of the Stenographer : Shri. S. I. Shaikh
Name of Court : Judicial Magistrate F.C.,
Court No.6, Ichalkaranji.
Date of Dictation : 18/2/2020
Judgment signed by the P.O. On: 18/2/2020
Judgment uploaded on : 20/2/2020