



ORDER BELOW EXH. 04 IN PWDVA NO. 01/2019

1. The applicant has filed the present application for grant of interim maintenance against respondents till decision of the case. The applicant has filed the main application under section 12 of the Domestic Violence Act against respondents out of which respondent no. 1 is her husband, respondent no. 2 is her mother in law, whereas, respondent no. 3 to 5 are her in laws. Heard the learned advocate D.B.Nagounda for the applicant no. 1 and 2. By way of this application the applicant has claiming the interim maintenance of Rs.5,000/- each per month to her and for applicant No. 2 his son till the decision of the case.

2. It is undisputed fact of the case that, the applicant no. 1 is legally wedded wife of respondent no. 1 and their marriage was solemnized on 16/02/2017. It is submitted on behalf of the applicant that, respondents used to harass the applicant on various counts. The applicant has also made allegations against respondents with regard to the mental, physical abuse. It is the contention of the applicant that, respondents always used to beat her for demand of taking divorce. So also, respondent no. 1 always used to threaten her for taking divorce and for performing second marriage. On 20/08/2018, all respondents had beaten applicant no. 1 by means of plastic pipe, rubber band and belt and drove her out of their house. When applicant no. 1 informed said incidence to her parents, her mother came to her house but respondents also beaten her in presence of her mother and to her mother also. At that time,

respondent no. 1 made attempt to end life of applicant no. 1 by throttling her. Therefore, she went at her matrimonial house. Thereafter, applicant no. 1 and her parents tried to convince the respondents on various occasions. However, they are not ready to make cohabitation with applicant no. 1. At the time of her delivery, respondents have not made any expenditure. He never used to give her money for daily household expenditure. Respondent no. 1 has also taken her ornaments forcefully and by pressuring her and he has also threaten her that he will perform second marriage. He always used to make demand of the taking divorce with applicant no. 1 and no care was taken by the respondent during her pregnancy.

3. According to the applicant, she has not any means to maintain herself and her son. The present application will take time to decide and during which the applicants will have to starve. The economic condition of her parents is not good. To the contrary, the respondent no. 1 is getting income of Rs.10,00,000/- per annum out of his agricultural land and no one is dependent on the respondent no. 1.

4. The respondents have filed the say to the application of the applicant vide Exh.09. According to the application filed by the applicant is baseless and not maintainable. The entire allegations leveled against them are false and without any substance. Respondent no. 1 was working at Goa prior to his marriage. However, he left the job due to medical treatment of his left eye and he started farming at his native place. At the time of marriage, applicant no. 1 was aware with the entire family background and other condition of respondents. After her marriage applicant no. 1 continued her job and after some days, she left the said job. The

behavior of the applicant no. 1 with the respondent was not good of nature. She always used to avoid performing delay household work. On one occasion, she beaten respondent no. 1, when he tried to convince her to get up early in the morning. Father of the applicant no. 1 made the demand of taking divorce in one of the meeting held by the relatives to resolves the dispute with applicant no. 1. When she become pregnant, she was insisting for making abortion. However, after convincing her by the relatives in meeting, she agreed for continuing her pregnancy. She always used to make quarrel with the respondent on a trifle issues. She always used to make demand for living separately from other respondents. As per her demand, respondent no. 1 started living separately with applicant no. 1. However, she was not doing any household work and in one of the occasion she again beaten respondent no. 1 for not performing any household work. In one of the occasion, relatives of the applicant no. 1 beaten respondent no. 1 and given him threat of death. When respondent no. 1 lodged the complaint for the said incidence, applicant no. 1 told the police that, she is not having any dispute with respondent no. 1.

5. According to the respondents, respondent no. 1 tried to cohabit with applicant no. 1, however, she was having the demand to live separately at gadhinglaj. But respondent no. 1 was not in position to fulfill her demand as he was looking the agricultural business of his family, she made the demand of Rs.5,00,000/- and requested respondents to give their estate in her name for cohabiting with them. Therefore, she had left the house of the respondent as per her own wish. Respondent no. 1 is not getting the income from the agricultural land as alleged by the applicant. So also, respondent

no. 2 and 3 are having ill-health and respondent no. 1 is having the responsibility of his parents with him. To the contrary, applicant no. 1 is getting the income of Rs.5,000/- per month out of accounting. So also, her economical conditions is good. Therefore, she is not entitled for the separate maintenance amount. In view of this reasons, respondents has prayed to reject the application of the applicant no. 1 and 2.

6. In view of the rival contentions, it is very much clear that the applicants are not residing with the respondents. The question whether the respondents have subjected the applicant No. 1 to the ill treatment or whether she is residing or deserted the respondents on her own wish, these facts are to be decided after seeking opportunity to lead the evidence to the both sides. At this initial stage, those questions can not be determined. The respondent No. 1 being the husband of applicant No. 1 and father of applicant No. 2 is under legal as well as moral obligation to maintain them. The respondents have raised various contentions that the allegations raised on behalf of the applicants are baseless and false. However, mere submissions made by the respondents are not sufficient unless some convincing circumstances are shown that they were ready to maintain the applicants. So also, the respondents have not shown anything from which it could be said that they did the arrangements for the maintenance of the applicants. Therefore, failure of part of the respondents to provide the maintenance to the applicants results into 'economic abuse' as per the definition of domestic violence as provided under the act. Therefore, respondent No. 1 is under legal and moral obligation to pay the interim maintenance amount to the applicants till the decision of the case.

7. After considering the reasons as stated above the question remains regarding the quantum of the interim maintenance amount. As per the submissions on behalf of the applicant No. 1, respondent no. 1 is getting near about Rs.10,00,000/- per year out of his agriculture land. However, in support of this contention, the applicant has only filed 7/12 extracts of agricultural land in name of respondent no. 1. It is settled principle that, naturally a wife is dependent on her husband and the husband is under the liability to maintain her or to provide her some amount so that she can arrange for herself and for child. It is admitted fact on record that applicant No. 1 is residing along with applicant No. 2 at her paternal home.

8. Therefore, in view of these reasons and considering the rising prices of the essential commodities, in my view the amount of Rs. 2,500/- per month to the applicants collectively towards the interim maintenance would meet the ends of justice. With this I proceed to pass the following order.

ORDER

1. The respondent No. 1 shall pay an amount of Rs.2,500/- (Rs.Two thousand five hundred only) per month to the applicants collectively towards the interim maintenance from the date of application till the final decision of this case.

Gadhinglaj.
Date : 09/10/2019

(H.V.Kulkarni)
Judicial Magistrate First Class,
Gadhinglaj.