

P.W.D.V.APPLN.NO.21/2017

Sonam vs. Sandeep

Exh.9

ORDER

The applicant filed the application under section 18, 19, 20, 21, 22 and 23 of the Protection of Women from Domestic Violence Act, 2005.

2. I have perused the application at Exh.9 filed under section 23 of the Protection of Women from Domestic Violence Act, 2005 and say filed by non applicant no.1,2 and 4 at Exh.11. Heard learned advocate for the applicant and non applicants.

3. The applicant averred in the application at Exh.9 that the applicant and non applicant no.1 are married according to Hindu rites and rituals on 19-10-2009. Thereafter, the applicant had gone for cohabitation at her matrimonial house along with non applicants. Non applicants used to abuse and beat the applicant on account of dowry. Non applicant no.1 and 2 used to ill treat the applicant for domestic work. The applicant to save her marriage started to bear physical and verbal abuse of non applicants.

4. The applicant gave birth to the daughter Shivanjali on 11-12-2016 from the lawful wedlock with non applicant no.1. On 14-6-2017, non applicant no.1 being a police officer abused, threatened and assaulted the applicant to sign on notarized divorce deed. Thereafter, non applicants drove out the applicant with her daughter from the matrimonial house. At present the applicant with her daughter Shivanjali are residing with the friend of the applicant. Thus, non applicant physically, verbally and economically abused and harassed the applicant. Non applicant no.1 deserted the applicant and their daughter Shivanjali without

any reasonable cause.

5. The learned advocate for the applicant argued that the fact of marriage between the applicant and non applicant no.1, birth of their daughter Shivanjali and their relation are admitted to both, the applicant and non applicant. The applicant is helpless and having one daughter of 11 months. Non applicant serving in police department and also having agricultural earning. Therefore, he is having sufficient means of earning to maintain the applicant and their daughter Shivanjali. But non applicant no.1 did not make any provision for maintenance of the applicant.

6. Non applicant contended in their say that the applicant filed false application to harass non applicants. The fact of marriage between the applicant and non applicant no.1, birth of their daughter Shivanjali and their relation are admitted to non applicants. The applicant is stubborn and short tempered. The applicant used to go frequently at her natal house. Non applicants always tried to convince her to reside with non applicants. But the applicant did not pay any attention towards their advice.

7. The learned advocate for non applicants argued that the applicant voluntarily deserted non applicants without reasonable cause, therefore, she is not entitled to the reliefs granted under the Protection of Women from Domestic Violence Act, 2005. Non applicants made provision for maintenance of the applicant and their daughter Shivanjali.

8. After perusing record of the case and considering arguments advanced by the learned advocate for applicant and non applicants, it seen that before filing this application under the Protection of Women from Domestic Violence Act, 2005, the

applicant and non applicant no.1 applied for divorce by mutual consent. At the time of filing petition for divorce by mutual consent, it was agreed between the applicant and non applicant that on account of permanent alimony Rs.7,00,000/- is payable by non applicant to the applicant. Out of Rs.7,00,000/-, non applicants paid Rs.3,50,000/- at the time of filing petition by cheque. As per their agreement, the cheque of Rs.3,50,000/-handed over to the applicant. But it was not encashed. This fact was admitted by the applicant and non applicants.

9. I have perused documents filed along with document list at Exh.15. The applicant produced photo copy of the application to withdraw the consent for divorce by mutual consent. As per Non applicants admitted the marriage between the applicant and non applicant no.2 and birth of their daughter. Non applicant also admitted that non applicant no.1 is serving in police department and he having salary of Rs.19,000/-per month. Non applicant having agricultural land of 0.9R jointly. Thus, it is bounden duty of non applicant no.1 to maintain his wife, the applicant and their daughter Shivanjali. As per admitted by non applicant and documents produced before the court, it seen that non applicant no.1 having sufficient means to maintain the applicant and their daughter Shivanjali.

10. Considering above circumstances and documents produced before the court, I pass the following order.

ORDER

1. The application at Exh.9 is partly allowed.
2. Non applicant no.1 is directed to pay Rs.2,000/- per

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month to the applicant and their daughter Shivanjali each as interim maintenance till final decision of the application under section 23 of the Protection of Women from Domestic Violence Act, 2005.

Date-8-11-2017

(Ms B.A.Durgawade)
2nd J.M.F.C.,Gadhinglaj.