



P.W.D.V.A. Appln.No.26/2019
Yasmin Bagwan Vs Firoj Bagwan and
others

CNR No.MHKO180007532019

ORDER BELOW EXH.5

(Passed on 09th February, 2021)

Perused application filed under section 20 and 23 of Protection of Women From Domestic Violence Act (hereinafter shall be referred as 'PWDVA') in which applicant Yasmin has prayed for interim monetary relief Rs.10,000/- per month. She has also prayed for rent Rs.5,000/- per month or alternate accommodation and also Rs.5,00,000/- towards interim compensation and protection order. The application is filed along with her affidavit. Heard learned advocate for applicant Yasmin (hereinafter applicant shall be referred by her first name 'Yasmin').

2. After service of notice respondents appeared but did not file say to this application as well as main application. Therefore application proceeded without say of respondents.

3. Respondent No.1 Firoz is husband of Yasmin, respondent No.2 is mother of respondent No.1, respondent No.3 sister of respondent No.1, respondent No.4 and 5 are brothers of respondent No.1 whereas respondent No.6 and 7 wives of respondent No.4 and 5.

4. The following points arise for my determination. I have recorded my findings against each point followed reasons as under :-

1)	Whether application prima-facie discloses that respondents are committing or have committed or there is likelihood that they may commit an act of domestic violence against applicant ?	...In the Affirmative.
2)	Whether applicant is entitled for interim monitory relief in the form of maintenance as claimed ?	...Partly Affirmative against respondent No.1 only.
3)	Whether applicant is entitled for house rent or alternate accommodation as prayed ?	...In the negative.
4)	Whether applicant is entitled for interim compensation ?	...In the Negative.
5)	Whether applicant is entitled for protection order as prayed ?	...In the affirmative.
6)	What order?	... Application is Partly allowed as per final order.

As to point no. 1 :-

5. Yasmin has contended that, she is legally wedded wife of Firoz (Hereinafter respondent No.1 shall be referred by his first name 'Firoz') and their Marriage is solemnized on 04/05/1997 at Kurundwad, Taluka - Shirol, District – Kolhapur as per muslim religion. Out of said wedlock one female child namely Aayesha is born. At present Aayesha is with Firoz. It is further contended by

Yasmin that after the marriage she started residing at her matrimonial house at Nippani, Taluka - Chikkodi, District – Belgaon. It is contended that respondent have started illegal demand of Rs.1,50,000/- from Yasmin immidiatly after the marriage for starting the new business of Firoz. Respondents used to abuse, taunt and beat Yasmin. They used to keep her starving as she could not fulfilled their demand. Thereafter parents of Yasmin fulfilled demand of respondents. However respondents spent that money for their luxury and again started harassing Yasmin. Respondents again demanded money from Yasmin and driven her out of the house as she could not fulfill their demand. Respondents used to threat her that they will perform second marriage of Firoz. The dispute between Yasmin and respondents have been resolved by mediators. But respondents did not stop demanding money from Yasmin. Respondents have demanded money from Yasmin for the marriage of respondent No.3. In spite of fulfillment of demand respondents used to torture Yasmin physically as well as mentally. Respondents used to threatened Yasmin about performance of second marriage of Firoz. Due to harassment by respondents Yasmin became psychologically disturbed. Therefore she started taking treatment from psychologist. Firoz and other respondents are not ready to allow Yasmin to stay with them. In spite of constant efforts by mediators respondents are not ready to allow Yasmin to stay with them. On the contrary Firoz is demanding divorce form Yasmin and also threatening her to kill. Since year 2015 Yasmin is residing at her parental house, as respondents compelled her to stay there.

6. Firoz has not made any arrangement regarding maintenance of Yasmin. Yasmin is not having any source of income. Firoz is in hotel business and earning income Rs.25,000/- to Rs.30,000/- per month. Other respondents are having their independent source of income. Therefore applicant has prayed for interim relief supra.

7. Respondents have not filed their say and failed to resist the application. There are specifications in regard to verbal, emotional and physical abuses as well as illegal demand of money on several occasions. The averments in the application certainly display prima facie the existence of Domestic Violence. Respondent No.1 Firoz and other respondents failed to resist main application as well as present application, therefore, averments raised by Yasmin prima facie shows that the act of Domestic Violence has taken place. The ingredients of domestic violence, prima facie can be seen from the averments in the application supported by affidavit of Yasmin. Hence, I answer point no.1 in "affirmative". Now the question remains as to whether Yasmin is entitled for interim relief as prayed supra.

As to Point No.2 :-

8. So far as, income of Firoz is concerned, Yasmin has not placed on record any document to substantiate her claim as to income and income source of respondent No.1 Firoz. Thus, there is no material to display that, respondent No.1 Firoz is having any source of income. But, it is also fact on record that, Firoz has not denied the contention in the application and averments raised by Yasmin in the application. Still, even if it is considered that, Firoz

is skilled laborer and able bodied person, he would be earning Rs.300/- to 400/- per day. In that case, he would be certainly earning Rs.9,000/- to 12,000/- per month. Therefore, Firoz is having sufficient means of income. During pendency of this case, Yasmin would require to maintain herself. Therefore, she certainly need some sort of interim monetary relief in the form of maintenance. Considering the basic needs of Yasmin as well as tentative income of respondent No.1 Firoz, I think it would be fit to grant interim maintenance at the rate of Rs.3000/- per month to Yasmin from the date of this application i.e. from 16.11.2019. Hence, I answer point no.2 in "partly affirmative".

As to Point No.3:-

9. At present Yasmin is residing in her parental house. It is nowhere her contention that, her parental house is insufficient for her to stay or her parents are not allowing her to stay there with them. Therefore, as there is sufficient protective shelter for Yasmin in the form of her parental house, I do not find any necessity at this moment to grant residence order as prayed supra. Hence, I answer point no.3 in "Negative".

As to Point No.4 :-

10. Yasmin has claimed that she is entitled to interim compensation due to physical and mental harassment caused to her by respondents. However considering the monetary relief already granted to Yasmin, I do not think it is necessary and urgent to pass any order as to interim compensation. The same aspect can be considered after evaluating the evidence of Yasmin in that regard. Therefore I am not inclined to grant the interim

compensation at this stage to Yasmin. Hence, I answer point No.4 in the "Negative".

As to point No.5 :-

11. As Yasmin has prima facie proved the the domestic violence has taken place, it is necessary to grant interim protection order to her. Therefore I answer point No.5 in the "affirmative".

As to point No.6 :-

12. Considering my answer on point No.1 to 5 I record my findings for point No.6 as application is partly allowed and proceed to pass following order :-

ORDER

- 1) Application is partly allowed.
- 2) respondent No.1 Firoz shall pay interim monetary relief in the form of maintenance at the rate of Rs.3,000/- (Rupees Three Thousand only) per month to applicant Yasmin from the date of filing of this application i.e.from 16.11.2019 till decision of this case.
- 3) Respondents are temporarily prohibited from committing, aiding or abetting any act of domestic violence against Yasmin till decision of this case.
- 4) Copy of this order be supplied to the parties free of cost.

Sd./-

(Shalaka S. Jambhale)

Dated :09.02.2021.

Judicial Magistrate First Class,
Kurundwad.

