



P.W.D.V.A. Appl. No.22/2023
Anjali Vs. Ravi Fatate & ors.

ORDER BELOW (EXH.20)

APPLICATION FOR INTERIM MAINTENANCE

1. This is an application filed by applicant under section 23(1) of the Protection of Women from Domestic Violence Act, 2005 (hereinafter referred to as “the D.V. Act” for the sake of brevity and convenience) and thereby sought for interim maintenance of ₹15,000/- for the applicant.

2. The case put forth by the applicant in brief is that, applicant is the legally wedded wife of respondent No.1. According to the applicant, on 19.05.2020 she married respondent No.1 as per the prevailing customs in Hinduism. It is the specific case of the applicant that after the marriage she had been to her matrimonial house for cohabitation. At that time all the respondents were residing jointly. They have treated the applicant well for initial some period and thereafter the respondents have started to show their colours, by ill treating her by saying that she keeps on sleeping, does not do household chores properly etc. It is the specific case of the applicant that respondent No.1 has video graphed their sexual acts and shown the same to respondent No.2 to 6 and thereafter making it a point he has imputed her character. When the said ill treatment went beyond her tolerance, she revealed her ordeal to her parents. Accordingly when her parents asked the respondents about the said ill treatment, they were being abused, assaulted and insulted at the instance of the respondents and driven her out of the matrimonial house. Thereafter the applicant and her parents have time and again requested the respondent to allow her to

resume cohabitation, however they bent upon to bring ₹10 lakh from her parents to purchase a flat otherwise they will not allow her to resume cohabitation, and not allowed her to remain in the house. The said incident is of December 2020. Being no alternative remained with her except to knock at the doors of the police station on 17.02.2023, she has lodged a report against the instant respondents for alleged commission of offence punishable under section 498-A of the IPC. According to her, since her ouster she has been leading her life at the mercy of her parents.

3. The respondent has not taken any care in respect of food, clothes, shelter etc. of the applicant. She has no any source of income. She is indeed in need of ₹15,000/- as against interim maintenance to meet the expenses of herself for medicine, food, shelter, clothes etc. Further she needs ₹5,000/- as against house rent per month as well. On the point of source of income of respondent No.1, it is the specific case of the applicant that respondent No.1 has been serving in Government Department on high position and getting handsome salary in between ₹50,000/- to 80,000/- per annum. Further, respondent No.2 is a professor and he also gets ₹1 to 1.5 lakh per month. Further they have a house and they gets ₹10,000/- per month as against its rent. Except the applicant, none depends upon respondent No.1. The respondent No.1 has neglected the responsibility to maintain the applicant, such vagrancy needs to be taken care of. Ultimately prayed for interim maintenance of ₹15,000/- per month and ₹5000/- per month as against house rent. Hence, the instant application for the relief sought for.

4. Respondent No.1 to 6 have filed their say (Exh.27) to the application under reply and thereby at the very outset denied all the adverse allegations leveled against them. They have only admitted the matrimonial relationship in between the litigating parties and denied the

rest of all the contention. According to them, their marriage has been performed in a very simple way, just because at the relevant time the Corona Pandemic was at its peak and as the State has imposed much more restrictions. They went on to submit that the applicant did not use to do household chores, keep on sleeping, back answering the elderly persons in the house, creating a scene whenever things go against her, acts rudely etc. The sum and substance of the say of these respondents is that for this litigation they are not at fault. In turn it is their plea that they are the real victim. Further they have tried their best not to distract the matrimonial relationship of the parties and thereafter for resumption thereof as well. They have denied all the rest of adverse allegations levelled against them. Penultimately, they have stated that their income is falsely mentioned by the applicant. Ultimately, they have prayed for rejection of the application.

5. Heard Shri. D. M. Patil, learned advocate for the applicant whereas Shri. V. A. Dixit, learned for respondent, for some time. Considered the submissions made on behalf of the rival parties and perused the record.

6. Following points arise for my determination, findings thereon for the reasons therefor are as under :

<u>Sr. No.</u>	<u>Points</u>	<u>Findings</u>
1)	Whether the applicant prima-facie : shows that she is an aggrieved person?	Yes.
2)	Whether the application prima-facie : discloses that the respondents are committing or have committed acts of domestic violence against applicant ?	Yes.
3)	Whether the applicant is entitled for : interim maintenance as prayed ? If yes, for what amount ?	Yes, but ₹4,000/- per month only.
4)	Whether the applicant is entitled for rent :	Yes, ₹3,000/- per

- amount of ₹5,000/- per month ? month only.
- 5) What order ? : The application is partly allowed.

REASONS

ADMITTED FACTS :-

7. Some time respondent No.1 has appeared before the Court. I had referred the case for mediation. However, the parties could not arrive at amicable settlement. The marriage between the applicant and respondent No.1, relationship *inter se* between the parties etc. are admitted. The separate residence of the parties is also not in dispute. However, the reason behind such separate residence is under challenge.

AS TO POINTS NO. 1 AND 2 :-

8. Since the above points are interlinked, to avoid repetition of facts and considerations thereon, they are taken together for consideration.

9. The applicant has come with the case that the respondents have committed domestic violence on her and she is an aggrieved person. Before advertng to the facts of the instant case, I would like to refer the above important terms. The term “aggrieved person” is provided under section 2(a) whereas “domestic violence” is provided under section 3 of the D.V. Act, 2005. On conjoint reading of both the provisions, it reveals that for being aggrieved, a woman must be in a domestic relationship with respondents and she must have alleged that she has been subjected to any act of domestic violence as provided under section 3 of the D.V. Act, 2005. Section 3 of the D.V. Act, provides certain acts to be called domestic violence.

10. Admittedly, the applicant is a woman and she is the wife of respondent No.1 and daughter-in-law of respondent No.2 and 3 whereas rest of the respondents are the close relatives of respondent No.1. The

applicant has stated in her application that after her marriage she had been the place of respondents for cohabitation. She has resided there and at other places along with the respondents until her ouster. The applicant has claimed that the house of respondents' is a shared household. Further the applicant has stated that the respondent No.1 has videographed their physical relationship and made it watched by the other respondents. Upon being asked about the same, the respondent has imputed her character and after being beaten up, demanded her an amount of Rs.10,00,000/- and as she being failed to comply with this demand, in December 2020 she was driven out of matrimonial house. The very act of imputing her character, itself amounts to domestic violence. Though, the respondents have denied all these allegations, still it cannot be taken as complete truth of any party. However, it prima facie seems some substance in the allegations leveled by the applicant. Thus, the stay of the applicant with respondents prima facie seems to be true. Therefore, the case put forth by the applicant as to her stay in a shared household prima facie appears to be genuine. Thus, I hold that prima-facie it discloses that the applicant was resided in domestic relationship with respondents in a shared household.

11. The applicant has specifically contended that her marriage has been solemnized with respondent No.1 and thereafter only for some period the respondents have treated her well. Thereafter they used to ill-treat her on account of trivial things, such as they used to get done all the chores from her, beaten up her while she was failed to comply with the money demand etc. Further she has averred that respondent No.2 to 6 always instigates respondent No.1 to ill-treat the applicant.

12. It is the case of the applicant that since her ouster she has attempted to resume cohabitation, however the respondents did not allow her to do so on flimsy reasons. All these allegations have been supported

by an affidavit. Thus, the case put forth by the applicant cannot be doubted at this initial stage. It is made clear that while dealing with an application under section 23 of the D.V. Act, mere allegations made in the application is sufficient. It is not expected from the applicants to bring the proof of pleaded allegations. Same thing is applicable to respondents as well who are also not supposed to prove or disprove any allegations by them or against them. Respondent No.1 has not denied the matrimonial relations between him and the applicant, the separate residence of the applicant etc. Therefore, the only aspect warrants consideration is whether the applicant prima-facie discloses that the respondents are committing, or have committed or there is any likelihood that they may commit an act of domestic violence against the applicant.

13. On that count the application discloses specific instances as to verbal and emotional abuse and also of physical abuse to the applicant by the respondents, as stated above. It is not on record that despite the separate residence of the applicant, he has provided any means of livelihood to her. This certainly amounts to refusal as well as neglect on the part of respondent No.1 to ensure the living and to maintain the applicant. These instances, narrated by the applicant certainly fulfill the ingredients of the term “domestic violence” as defined in Section 3 of the D.V. Act. Thus, I hold that the circumstances as well as allegations in the application certainly disclose the prima-facie existence of domestic violence. Further, I hold that prima-facie the applicant is an aggrieved person within the meaning of section 2(a) of the D.V. Act. Therefore, I answer Points No.1 and 2 in the affirmative.

AS TO POINT NO. 3 :-

14. As considered above, respondents have prima-facie committed acts of domestic violence. It is relevant to mention here that it

is the legal as well sacrosanct duty of the husband to maintain his wife, still respondent No.1 is miserably failed to fulfill his legal and moral duties. According to the applicant, she does not have any source of income to earn her livelihood. As against this, respondent No.1 has been serving in a Government department and getting handsome salary. Hence, the applicant has claimed an amount of ₹15,000/- per month towards her interim maintenance.

15. On this point, one of the most celebrated verdicts of the Hon'ble Supreme Court in the case of **Rajnish Vs. Neha (2021) 2 SCC 324**, is relevant. The Hon'ble Supreme Court has laid down a slew of directions to be considered while determining an amount of maintenance in all cases. As per the said decision while considering the quantum of maintenance, the status of parties, reasonable need of wife and children, if the children are school going then their education expenses and fees of extra coaching classes, medical expenses of wife and children, basic needs of wife and children including food, shelter and clothing etc. have to be taken in to consideration. Moreover, the maintenance amount awarded must be reasonable and realistic and avoid either of the two extremes i.e. maintenance awarded to the wife should neither be so extravagant which becomes oppressive and unbearable for the respondent, nor should it be so meager that it drives the wife to penury. The sufficiency of the quantum has to be judged so that the wife is able to maintain herself with reasonable comfort. Both the parties have filed their respective affidavits as to assets and liabilities. Thus, these affidavits needs to be gone through.

16. In the said affidavit the applicant has stated her general expenses as ₹20,000/- per month whereas the respondent has shown ₹40,000/- as his general expenses per month. The applicant has shown no sources of income to earn her livelihood. Whereas respondent No.1 has

shown his salaried income as ₹42,802/- per month as Clerk at Civil Hospital, Solapur. He has to shoulder responsibilities of his aged parents. It is made clear that the applicant has stated the income of the respondent on oath and her monthly liabilities as well. Hence, she cannot be disbelieved. Further, though respondent No.1 has shown his monthly expenses as ₹40,000/-, still it cannot be ignored that he has to maintain the applicant. Thus, prima facie I hold that the respondent No.1 has a good salaried income.

17. During pendency of this application, the applicant would have certainly required maintenance to enable her to lead her life with dignity and to contest this application as well. The respondent No.1 has not made any arrangement of expenses of the applicant. Being the husband, a responsibility cast upon him to bear the expenses of the applicant. Therefore, the applicant must be awarded with some sort of interim monetary relief in the form of interim maintenance. The applicant has stated the income of respondent No.1 from salary and other sources as well. Though, these contentions being rebutted still the respondent No.1 cannot escape from liabilities to maintain the applicants.

18. To substantiate their version the applicant has filed on record officer order issued by Commissioner, Medical Education, Research and Development dated 31.07.2024 hereby the respondent No.1 appear to be promoted on the post of Senior Clerk having grade pay S-8 (25,500-81,100). Further perusal of 7/12 extract of land block No.37 to 39 and 42 reveals that almost 1H 9R land standing in the names of other respondents. Further perusal of Form No.8 of house bearing MC house No.3-2-2050 reveals that it has an area admeasuring 1340 Sq.feet having ground floor plus four storeyed building thereon. It stands in the name of respondent No.2. Thus I hold that the other respondents might have generated good

income from their agricultural properties. Further they have an RCC 3 storeyed house to reside.

19. Perusal of the above office order reveals that the respondent No.1 has been getting more or less Rs.50,000/- per month as against salary. Except the applicant, none depends upon the respondent No.1. The Court cannot loose its sight that the respondent No.1 has to shoulder the responsibilities of aged parents. However, respondent No.1 is a pensioner as well and he might have getting sufficient pension to meet their expenses. Still respondent No.1 might have been incurring some money on them as well. However, at the same time the respondent No.1 cannot be exempted from the liabilities of the applicant. Therefore, considering the basic needs such as food, clothing, basic medication, shelter of the applicant, coupled with tentative monthly income of respondent No.1 and to maintain the equal lifestyle, I think it fit to grant the interim maintenance at the rate of ₹4,000/- per month to the applicant from the date of this application. Therefore, I answer point No. 3 in the partly affirmative and record my findings accordingly.

AS TO POINT NO.4 :-

20. This point pertains to residence order. According to the applicant, either the respondent should accommodate her in his house or if it do not work then he should arrange her separate residence or pay rent of ₹5,000/- per month. However, considering the bitter relations between the parties it would not be just and proper to direct respondent No.1 to make arrangement in his own house to accommodate the applicant. Now, I begin to consider where the applicant is residing in rented premises since her ouster. On this point, it is the case of the applicant that she has been residing in rented accommodation. Though she has not filed any documents in support of her averments, still at this initial stage no strict

evidence is required. It would be out of place to mention here that wherever she resides, she would have paid rent thereof, whether it is the house of her relatives or others. Thus, it cannot be expected that had the applicant residing in rented accommodation she would have filed either rent receipts or affidavit of the landlord on record. Thus, I hold that it is not just and proper to expect for rent receipts etc. at this initial stage. Hence, an amount of ₹3,000/- per month needs to be granted as against house rent to the applicant. With these reasons, rent amount instead of the relief of residence order is granted. Hence, I answer point No.4 in the partly affirmative and record my findings.

AS TO POINT NO.5 :-

21. In view of findings recorded to points No.1 to 3, the applicant is entitled to get interim maintenance at the rate of ₹4,000/- per month. Though the instant main application is filed on 02.03.2023, still the instant application seeking for interim maintenance is filed on 19.09.2025, since then respondent No.1 has not incurred any liabilities of the applicant. The applicant might have incurred expenses to meet her day to days needs. Thus, as per the dictum in **Rajnesh Vs. Neha** (cited supra) the interim maintenance amount needs to be granted from the date of filing of this interim application and not from the date of this order. In the result, in answer to point No.4, following order is passed :

ORDER

- 1) The application is partly allowed with costs.
- 2) Respondent No.1 is hereby directed to pay an amount of ₹4,000/- (Four Thousand rupees only) per month to the applicant towards the interim maintenance.

- 3) Respondent No.1 is hereby directed to pay an amount of ₹3,000/- (Three Thousand rupees only) to the applicant per month towards the house rent.
- 4) The respondent No.1 shall pay the above directed interim maintenance and rent amount from the date of filing of this application i.e. from 19.09.2025 till the disposal of the main application.
- 5) The above directions as to payment of arrears of maintenance and rent amount shall be complied with within one month from today itself and thereafter shall keep on complying with on or before 5th day of every English Calendar month on regular basis.
- 6) The respondent No.1 is hereby directed to pay an amount of ₹15,000/- towards expenses of this proceeding.
- 7) A copy of this order be supplied, free of costs, to the applicant and the respondent No.1.

Date : 08.01.2026.
Place : Udgir.

(Bhalchandra R. Zende)
Judicial Magistrate (F.C.),
(Court No.3), Udgir.