

IN C.C. NO.44/DV/2024.
ORDER BELOW EXHIBIT NO.2

This is an application filed in accordance with S. 23 of the Protection of Women from Domestic Violence Act (in short, "DV Act").

02. Gone through the application as well as say filed thereon.

03. The following points arise for determination. I recorded my findings along with it's reasons, which are as under :-

<u>Sr. No.</u>	<u>POINTS</u>	<u>FINDINGS</u>
(01)	Whether the aggrieved person prima facie proves that the respondents committed domestic violence ?	.. Yes.
(02)	Whether the aggrieved person proves that she has no source of income ?	.. Yes.
(03)	Whether the aggrieved person proves that the respondent has sufficient source of income ?	.. Yes.
(04)	Whether the aggrieved person proves that she is entitled for interim maintenance ? If Yes, at what rate ?	.. Yes, at monthly maintenance of Rs.6,000/-.
(05)	Whether the aggrieved person is entitled for residence/rent order ?	.. No.
(06)	What Order ?	.. The application is partly allowed.

REASONS

As To Point No. 1 :-

04. The aggrieved person re-iterated contention of the physical cruelty as well as mental cruelty caused to her at the hands of respondents. Per contra, the respondent denied all allegations of domestic violence. On the other hand, the respondents came with specific case that the aggrieved person herself left company of the respondent without any sufficient cause.

05. Though, there is no document to show that the aggrieved person lodged any report against the respondents for the alleged violence, she stated said fact on affidavit. Moreover, it is undisputed fact that the aggrieved person and the respondents are residing separately from February, 2024. There is no document to show that any payment has been made by respondent No.1 towards maintenance of the aggrieved person after February, 2024 or after filing the present petition. Accordingly, Section 3, Explanation I, sub clause (iv) of the Act comes into picture under ambit of economic abuse, which itself included in the definition of domestic violence. Hence, deprivation of the aggrieved person for her monthly expenses towards maintenance will go to prima facie prove domestic violence at hands of the respondent. Hence, point Nos.1 is answered in the affirmative.

As To Point Nos.2 to 4 :-

06. The aggrieved person came with very specific case that at present, she has no any source of income. On the other hand,

respondent No.1 is getting monthly income of Rs.1,00,000/- from his Mobile Shop at Delhi.

07. Per contra, respondent No.1 is contended that he has no permanent source of income. He is a Auto Rickshaw Driver, on an average, earning Rs.18,000/- per month.

08. In context of income source of the aggrieved person, in Affidavit of Disclosure, respondent No.1 mentioned that she has no source of income. Hence, it is prove that the aggrieved person has no source of income.

09. Considering the alleged income of Rs.1,00,000/- per month from business, the aggrieved person has not filed any documentary evidence. If, really respondent No.1 would have any business at Delhi, the aggrieved person could have file any document in regard to his business. But, no such documentary proof has been filed on record. As contended by the respondent, if he is getting Rs.500/- to 700/- per day as a Auto Rickshaw driver, his income can be calculated as Rs.21,000/- per month.

10. Before proceeding further to decide quantum of interim maintenance, it is imperative to state that undisputedly, both the parties have three daughters from their marriage. Two daughters have been resided with respondent No.1, while one daughter is residing with the aggrieved person.

11. Considering livelihood of both the parties in urban area and daily needs of the aggrieved person as well as her residence with her parents along with proved income of respondent No.1 as of Rs.21,000/-, I find no hurdle to pass interim maintenance order of Rs.6,000/- per month. Hence, point Nos.2 to 4 are answered accordingly in the affirmative.

As To Point No.5 :-

12. The aggrieved person further prayed for monthly rent as an interim relief. But, the aggrieved person has not brought any kind of evidence about her proposed residence in any room or rate of rent prevailing in that locality. In addition to this, her residence along with her parents has been considered for the purpose of calculation of interim maintenance. Furthermore, sufficient amount of interim maintenance has been granted on basis of assumed income of respondent No.1. As daily needs are considered for grant of interim maintenance based on income of respondent No.1, I did not find it justifiable to grant further amount for rent. Hence, I find no separate special grounds or reasons as to allowed separate payment of amount towards rent. Hence, point No.5 is answered in the negative.

As To Point No.6 :-

13. As stated earlier, the aggrieved person is entitled for maintenance order. But, she is not entitled for any rent order. Hence, the application will have to be partly allowed. For the reasons, In answer to point No.6, I pass the following order :-

.. 5 ..

CC NO.44/DV/2024
ORDER BELOW EXH.2

ORDER

(01)	The application is partly allowed.
(02)	Respondent No.1 do pay amount of Rs.6,000/- per month to the aggrieved person towards monthly maintenance from date of filing this application i.e. from dated 03/04/2024.
(03)	The application for rent is rejected.
(04)	Copy of this order be provided to both the parties free of costs.

Date :- 23/02/2026.

(P. S. Shinde)
Judicial Magistrate First Class,
29th Court, Dadar. Mumbai.