

IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS,
44TH COURT, ANDHERI, MUMBAI.

C.C.No.328/DV/2021

Mrs. Shahin Shaid Qureshi ... Applicant

V/s

Mr. Shahid Maqbool Qureshi ... Respondent

ORDER ON APPLICATION FOR ISSUANCE OF ARREST WARRANT

AGAINST THE RESPONDENT NO.1

(Passed on 15/11/2025)

The applicant who is aggrieved person and in whose favour the interim maintenance to the tune of Rs.15,000/- per month (i.e. Rs.10,000/- for her and Rs.5,000/-for her son), has been granted by this Court on 11/12/2023 under section 23 of Protection of Women from Domestic Violence Act, 2005, moved this application for issuance of arrest warrant against the respondent on the ground that in spite of having issued the warrant for recovery of the due maintenance amount, the respondent no.1 who is her husband, did not deposit the amount of Rs.6,00,000/-. Hence, according to her, the respondent is required to be arrested.

2. Per contra, the learned advocate for the respondent submitted that the respondent has paid about Rs.40,000/- and he is ready to pay the amount as per his financial capacity. According to him, no justice will be served if he is kept behind the bar.

3. Having heard the learned advocates for both the side, I perused the record.

4. The learned advocate for the applicant placed reliance on the judgment passed by the Hon'ble Bombay High Court in Writ Petition No.2434/2024. After having gone through this judgment, it appears

that the order passed by the Metropolitan Magistrate in C.C.No.96/DV/2018 sentencing the husband / petitioner to undergo simple imprisonment of 47 months for default in payment of maintenance of 47 months is set aside with the observation that the respondent no.2 wife may file separate applications for issuance of warrant subject to outer limit of 12 defaults being clubbed in one application.

5. Having gone through the present application on hand, it appears that the applicant has not specifically mentioned each month's default. She has only stated that more than Rs.6,00,000/- is due. On the other hand, it is the stand of the respondent that he has made payment of Rs.35,000/- till the filing of this application. Thus, there are discrepancies regarding the balance maintenance amount and the received amount and such controversy will be resolved only if the parties file their affidavit on record in this regard. In short, unless and until this controversy is resolved, it would not be justified to issue the arrest warrant against the respondent no.1 for recovery of the amount mentioned in this application. Hence, I pass the following order:

ORDER

Both the applicant and respondent no.1 shall file their respective affidavit on record to show how much amount was paid and how much amount was received out of the due maintenance allowance from 11/12/2023 to 15/11/2025.

Sd/-

(Sujitkumar C. Tayde)
Judicial Magistrate First Class,
44th Court, Andheri, Mumbai.

Date :- 15/11/2025