

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

C. C. No. 192/DV/2024

Kanchan Devraj Jambenal Applicant/Petitioner

V/s

Devraj Chanbasappa Jambenal Respondent

ORDER ON INTERIM MAINTENANCE APPLICATION

(Passed on 07/01/2026.)

The applicant who filed the petition under Section 12 of the Protection of Women from Domestic Violence Act, has moved this interim application under section 23 of Protection of Women from Domestic Violence Act, 2005 for grant of maintenance allowance and protection order.

The facts of the application are summarized as under:-

2. The applicant got married with the respondent on 19/05/2001 and out of this wedlock they have two issues namely Arohi and Hansraj. The applicant made several allegations against the respondent. Some of the vital allegations and facts are summarized in this application to avoid repetition.

3. The applicant has mentioned that she and the respondent purchased a flat jointly and it was given on rent. It is alleged that the respondent used to utilize the entire rent amount. However, the applicant has been paying E.M.I. to the tune of Rs. 54,000/- per month.

The respondent is alleged to have taken personal loan of Rs.8,00,000/- and a car in the name of the applicant and she is under obligation to pay the E.M.I. of the said loan. Thus, according to the applicant, though she is in Government service and gets the salary, still her salary is not sufficient to fulfill her basis needs because she has to pay the educational fees of her two children. According to her, their daughter Arohi is pursuing the engineering degree course and their son is taking education and all the necessary expenses towards the education are being born by the applicant herself.

4. According to the applicant, the respondent is working as Engineer in PWD Department and is getting handsome salary. But still he did not provide the financial assistance to the applicant. The applicant alleged that the respondent jointly purchased a new house in Lalit Apartment, Amboli along with his sister to cheat and deceive the applicant. Thus, the respondent is alleged to have intentionally overloaded the applicant with the financial burden.

5. The respondent is alleged to have caused mental, physical and verbal abuses to the applicant and their issues who reside with the applicant. It is further submitted that the respondent physically assaulted the applicant and created obstacles in the education of their children. The applicant lodged the complaints against the respondent in the Police Station Amboli on 04/03/2023 and 26/04/2024. But no cognizance was taken. Thus, in short, according to the applicant, she was subjected to domestic violence and the respondent deliberately avoided to repay the loan amount and thus, caused economic abuses towards the applicant. Hence, the applicant filed the petition under section 12 along with this interim application.

6. The respondent admitted his domestic relationship with the applicant. It is admitted fact that the daughter of the applicant and the respondent is taking education in Engineering College at Bandra and their son is also taking education. According to the respondent, he used to pay the engineering college fees and the education expenses of his son and daughter. It is the stand of the respondent that the applicant is in Central Government Service and earns more than Rs.1,00,000/- per month. Thus, according to the respondent, the applicant is capable to maintain herself. Hence, he denied her claim regarding the interim maintenance.

7. The respondent has come with the stand that the applicant used to insist him to purchase a flat and accordingly, they jointly purchased the flat which was given on rent. According to him, the applicant used to dominate him and she used to go to her parental house.

8. It is further alleged by the respondent that he was upset due to behaviour of the applicant. According to him, in the family meeting the applicant's uncle and her relatives behaved rudely with him. He alleged that the applicant used to pressurize him for his transfer to Mumbai. According to him, he took care of the applicant when she was pregnant and he paid the necessary expenses. It is alleged that the applicant has taken the advantage of her own wrongs and filed the present application on hand with malafide intention to torture and harassment. Thus, by denying all the adverse allegations leveled against him. The respondent submitted that the applicant has no locus standi to seek any relief against him.

9. Having heard the learned advocates for both the side, I perused the record. In the backdrop of the rival submissions, following points arise for my determination:-

Sr. No.	POINTS	FINDINGS
1.	Whether the applicant is entitled for interim monetary relief and protection order as prayed for?	Yes
2.	What order?	The application is partly allowed as per final order.

REASONS

AS TO POINT NO.1:

10. At the outset, it is pertinent to note here that the applicant filed the petition under Section 12 of the Protection of Women from Domestic Violence Act on 24/07/2024. The respondent has nowhere denied the domestic relationship with the applicant. It is admitted position that the applicant and the respondent have two children out of the said wedlock and these children are residing with the applicant. It is undisputed fact that a daughter of the applicant and the respondent is taking education in engineering college at Bandra and their son is also taking education in a reputed school.

11. According to the applicant, though she gets salary, yet her income is not sufficient to fulfill all the basis needs including the educational expenses of their children. It is further submitted by the applicant that the respondent denied to pay the E.M.I.towards the house loan and the other loan which was raised in her name by the respondent. Thus, the applicant has sought the interim maintenance on the ground that she has no source of income to fulfill the basic needs.

12. Before embarking upon the conclusion regarding the maintenance allowance, it is necessary to mention here the guidelines laid down by the Hon'ble Supreme Court in case of **Pravin Kumar Jain Vs Anju Jain (2025) 2 SCC 227** for fixing the amount of maintenance and the factors to be looked into in this regard. These guidelines are as under:

- i] Status of the parties, social and financial.*
- ii] Reasonable needs of the wife and the dependent children.*
- iii] Parties' individual qualification and employment statuses.*
- iv] Independent income or asset owned by the applicant.*
- v] Standard of life enjoyed by the wife in the matrimonial home.*
- vi] Any employment sacrifices made for responsibilities.*
- vii] Reasonable litigation costs for a non-working wife.*
- viii] Financial capacity of the husband, his income, maintenance obligation and liabilities.*

13. Having gone through the documents placed on record, it appears that both the applicant and respondents have made allegations against each other. The record shows that the applicant had already lodged the police complaints against the respondents. She has stated on oath that she was subjected to domestic violence at the hands of the respondents. It is needless to say here that the applicant and the respondents will prove the allegations made against each other and the trial will take its own time. However, having regard to the documents placed on record, it appears that the relations between the applicant and the respondents are strained. Thus, the documents placed on record demonstrate that the applicant has prima facie proved that she is aggrieved person. Moreover, having regard to the documents placed on record and the statement made on affidavit, it appears that the applicant has prima facie established the domestic violence.

14. The main defence of the respondent is that the applicant herself has been getting salary to the tune of Rs.1,00,000/- per month and he is not at fault. Hence, he denied the claim of the applicant in this regard.

15. In this case, it is admitted position that both the applicant and the respondent are earning members. In other words, having gone through the affidavit of assets and liabilities filed by both the parties, it appears that the applicant is serving in Employees Provident Fund Department and the respondent is serving as Engineer in P.W.D. Department. Having gone through the affidavit of assets and liabilities filed by the respondent, it appears that his old age mother depends on him at this juncture. It is further revealed that the applicant has been maintaining their two children who are taking education. Now I turn to scan the financial capacity of the applicant and the respondent in the light of the documents placed on record.

16. After perusal of the salary slip of the applicant filed on record, it appears that the applicant got net salary to the tune of Rs.70,044/- for the month of March, 2025. On the other hand, having gone through the entries in the salary account of the respondent (Account No.60356149289-Bank of Maharashtra), it is reflected that the respondent got the monthly salary to the tune of Rs.1,18,295/- on 29/11/2024. Thus, having gone through these relevant documents, at this juncture, it appears that the respondent is getting more salary than that of the applicant.

17. Apart from this, the respondent himself has filed the statement of his bank account to show that he had paid substantial

amount to the applicant. In such scenario, it can be inferred that the respondent is economically sound at this juncture to pay the expenses towards the education which is being taken by their children. In fact, the respondent has specifically admitted that his daughter is taking education in engineering college and his son also requires school fees to the tune of Rs.40,000/- per month. He has further submitted that he is not aware about the tuition fee of his son. Moreover, the applicant has stated on oath that she is paying E.M.I. to the tune of Rs.64,000/- per month towards the loan. In fact, the respondent has not filed any document on record to rebut these averments. In such scenario, it can be held that the salary which the applicant gets is insufficient to meet all the due expenses which are shown by the applicant in her affidavit of assets and liabilities.

18. It is the stand of the respondent that the applicant is earning and therefore, she is not entitled to claim the maintenance from him. But I am not inclined to take into consideration the stand taken by the applicant. In this regard, I am guided by the ratio laid down by the Hon'ble Apex Court, in the case of **Sunita Kachwala Vs Anil Kachwala reported in (2014) 16 SCC 715**, wherein the Hon'ble Supreme Court held that merely because the wife was earning some income, it could not be a ground to reject her claim for maintenance.

19. Now I turn to decide the another relief i.e. protection order sought by the applicant. It is pertinent to note here that the applicant stated on oath that she had lodged police complaint against the respondent. On the other hand, the respondent alleged that the applicant used to dominate him. It is admitted position that both the applicant and the respondent are residing separate and they are

working in separate offices.

20. The applicant has stated the facts regarding domestic violence on oath. In such scenario, it can be said that the domestic violence has taken place and it is likely to take place. In such circumstances, in my opinion, the applicant is entitled for the protection order as contemplated under section 18 of the Protection of Women from Domestic Violence Act, 2005.

Having regard to the financial position of the applicant and the respondent, their life style and the reasonable needs as pointed out by the applicant, the following order would meet the ends of the justice.

ORDER

1. The application is partly allowed.
2. The respondent is directed to pay the interim maintenance of Rs.30,000/- (Rupees Thirty Thousand Only) per month to the applicant towards the maintenance allowance to meet the education of their two children from the date of application until further order.
3. The respondents is hereby prohibited from committing any act of domestic violence against the applicant and her relatives.
4. The copy of this order be forwarded to the concerned Protection Officer for further compliance in accordance with law.

5. The copy of this order be supplied to the parties free of costs.

Sd/-

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

Date :- 07.01.2026