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| MHNG070000692021  | <u>Order Below Exh.1</u> (Passed on this 20th August , 2022) |
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This is an application for monetary relief U/s.23 of the Protection of Women from Domestic Violence Act, (hereinafter referred to as the Act).

2. In a nutshell, case of the applicant is that the marriage of petitioner and respondent no. 1 was solemnized on 28.11.2018 according to customs of Muslims. After marriage she had been to Anant Nagar (Zafar Nagar), Dist- Nagpur where she resided with her husband in joint family. Perusal of the application goes to show that, there is an allegation regarding mental and physical cruelty to the petitioner by respondents. After marriage respondent no. 1 and 2 used to abused petitioner in filthy language. Because of angry and mean nature of respondent no. 1 and 2 she suffers mentally and physically a lot. Respondent no. 1 and 2 used to hit her on cheek and back to wakeup her from sleep. Both of them always pushed her while working in the kitchen. Respondent no. 1 used to keep physical relation with petitioner without her consent and forcefully. He used to show her pornographic videos and picture and insist her to do the same. The respondents also raised allegation against the character of petitioner. It is also submitted that, the petitioner is being torcher, because she was not having issues.

3. For the demand of dowery they left her at parents house and also warned her not to come back without money. They always restrict her to went out and to meet aunty and niece of respondent no. 1. Respondent no. 6 supported and encouraged them as well as respondent no. 3,4 and 5 threatened to see her relatives. When the lock of cupboard of applicant is damage, they kept her gold ornaments with them. She was tired of their physical and mental abuse and lives with her parents.

3. In this way, due to the physical, sexual, verbal, emotional, economic abuse she went to her parent's house. Petitioner contended that respondent no. 1 has his own business of Tiles and Ceramic Material. He earns Four to Five Lac per month. Petitioner is not having any resource of income and unable to maintain herself. She depends on her father completely. Hence, petitioner prayed for interim maintenance of Rs. 50,000/- per month till decision of this case.

4. On the other hand respondents have filed their W.S. at Exh.12 and denied all material allegations in the petition. Similarly, the respondent also made counter allegation against her. He contended that, she never performed any household work and didn't follow the culture and customs of Islam. Respondent no. 1 further contended that, she deprived him from enjoying marital rights. Petitioner's mother also warned respondent that they should not even think of any child. It is their defence that, the petitioner always harassed respondent 1 and started quarreling with him for dropping

petitioner at maternal house. The petitioner also threatened to commit suicide therefore respondents have no other option and respondent no. 1 and respondent no. 3 dropped applicant at her maternal house. Further, it is submitted by the respondent no. 1 that, respondent 3 is running the business of Ceramics items and the respondent no. 1 is working under him on Rs. 10,000/- per month, out of which he have to maintain his mother i.e. respondent no. 2 and have to bear the other expenses. Hence, he is not able to pay any maintenance amount. On the Contrary, petitioner is highly educated and having the degree of D.Pharm, B.A. M.A and B.ED. And able to maintain herself. Hence, prayed for rejection of the application.

5. Subject application is moved U/s.23 of the Act. Needless to state that parties to the proceeding are not required to prove their contentions beyond reasonable doubt. If at all petition is disclosing prima facie incidents of domestic violence then petitioner is entitled for reliefs U/s.18 to 22 of the Act. What is domestic violence is stated in Sec. 3 of the said Act which includes physical abuse, sexual abuse, verbal, emotional abuse and economic abuse. Said abuses are specifically described in explanation clauses of S.3 of the said Act. In the backdrop of said provision, it is necessary to determine as to whether or not present petition is disclosing incidents of domestic violence as contemplated in S.3 of the said Act.

6. On having scrutiny of petition it appears that, the petitioner has made allegations that after some days of the marriage

respondent no.1 used to beat petitioner on mild reason, abused her in filthy language and shows her adult film and compelled to do like the same. In sum, petitioner has made allegations which comes within the purview of 'verbal, sexual, physical abuse' as defined in explanation clauses of S.3 of the Act.

7. It is the contention of the petitioner that respondent no.1 is not maintaining petitioner. According to her, respondent no.1 is having sufficient means. Needless to state that it is moral, as well as, statutory liability of the husband to maintain his family. In the present case, it is not the case of respondent no.1 that he is maintaining his family. In sum, petitioner is deprived from economic and financial resources to which she is entitled. Hence, petitioner are also subjected to the 'economic abuse' as stated in explanation clause (iv) of S.3 of the Act. As stated earlier, petitioner was also subjected to 'physical abuse', 'Sexual abuse' as well as, 'verbal and emotional abuse'. Application is prima facie discloses that petitioner was subjected to the domestic violence as contemplated in S.3 of the Act.

8. If it is satisfied that respondents have committed domestic violence then Magistrate can pass the order U/s.18 to 22 of the Act. In the present case, petitioner has claimed maintenance of Rs.50,000/- p.m. She contended that she is not having any source of income and totally depend upon her parents for day to day expenses. Whereas, respondent no.1 contended that he is working under respondent no. 3 as labour and has responsibility of respondent no.

2. The petitioner is well educated person and able to maintain herself.

9. Considering above discussion, I am inclined to held that the petitioner is contending that respondent no.1 is having his own business from which he earns at about four to five lac per month. Petitioner has filed photograph of respondent's shop on record. But, from photograph it is not clear that, whether respondent no. 1 is doing job or he has running his own business there. There is no other document on record which reveals that respondent no. 1 is running shop. However, in this regard she has not placed any documentary evidence on record.

10. Non- applicant no. 1 admitted that he is doing job on the shop and earning Rs. 10,000/- per month. Under said backdrop, an inference can be drawn that respondent no.1 being able bodied person, is having good source of income. On the other hand, petitioner is not having any source of income as non-applicant did not file any document on record. While deciding quantum of maintenance, it is necessary to consider standard of living of parties, basic needs of petitioner, earning capacity of respondent and present market. Needless to state that prices of essential commodities are rising day by day. It is necessary to make provision for diet and clothing of the petitioner. Considering all these aspects, it will justifiable to direct respondent no.1 to pay monthly allowance of Rs. 2.500/- to the petitioner. In the result, I proceed to pass following order.

O R D E R

1. Application is partly allowed.
2. Respondent no.1 is directed to pay 2,500/-p.m. (Rs. Two Thousand Five Hundred only) to the petitioner towards maintenance from the date of application till final disposal of the case.
3. Copy of order be supplied to both parties, concerned police station and Protection Officer free of costs.

Date :- 20.08..2022
Katol

(Neelam J. Pethe)
Jt. Civil Judge (Jr.Dn.),
& JMFC, Katol

ENDORSEMENT

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| Case Argued on | : | 05.08.2022 |
| Judgment dictated on | : | 20.08.2022 |
| Transcription Ready on | : | 20.08.2022 |
| Judgment checked and signed off | : | 20.08.2022 |

C E R T I F I C A T E

I affirm that the contents of the this PDF file Judgment are same word to word, as per the original Judgment.

Name of the Stenographer :- R.M. Parmal (Lr. Gd)