

MCA 134/15

Farida vs. Mohd. Jamal

Order below Ex.5

(Dated 7th October, 2015)

This is an application for interim maintenance to the tune of Rs. 10,000/-p.m. under sec. 23 of Protection of Women from Domestic Violence Act, 2005. It is contested by non-applicants by filing reply vide Ex. 10.

02] Heard.

03] Relation between applicant and non-applicants is not disputed. Therefore prima-facie it is required to see whether applicant is unable to maintain herself. Further, whether non-applicant no. 1 is having means. As per applicant she is residing at the mercy of her parents after desertion by non-applicant no. 1. On the other hand it is denied by non-applicants. However, they have claimed that applicant is earning Rs. 9,000/- from Tailoring work. To substantiate this fact there is no document on record. On the other hand it is claimed that non-applicant no. 1 is earning Rs. 45,000/- p.m. from his job. It is also claimed that non-applicant no. 1 is driver and earning handsomely. However, to show this fact there is no document on record. It means, both parties have not supported their claim with document.

04] In our society it is ethical, legal and moral duty of husband to maintain his wife. In case at hand prima-facie there is nothing which suggest applicant is having any source of income. On the other hand non-applicants though have denied about the earning source of non-

applicant no. 1 but submitted he is only earning 3000/- p.m. It means, non-applicant no. 1 is having earning capacity. To show his income to the tune of Rs. 3000/- p.m. non-applicants have not placed on record any document. Therefore, at this juncture it can not be relied on looking to the adverse allegations.

05] This propels me to decide quantum of maintenance. In absence of document as to income source of non-applicant no. 1, rising prices of commodities, living standard of parties, number of persons depend upon non-applicant no. 1 are relevant factors. It is claimed that father and sister of non-applicant no. 1 are depend upon him. However, he can not escaped liability of applicant. Therefore, looking to these factors I am of the opinion that amount of Rs. 2,000/- p.m. would justify the purpose. It would allow applicant to keep her body and soul together. On the other hand it would not be taxing upon non-applicant no. 1. In result, I pass following order:

Order

- 1) Application is allowed.
- 2) Non-applicant no. 1 do pay amount of Rs. 2,000/- p.m. to applicant from the date of application till final adjudication of main application.
- 3) Copy of order be provided to both parties.

Kamptee
Date : 7/10/2015.

(R. U. Shaikh)
Jt. CJD, Kamptee.