

MHNG080009172023



R.C.S. No. 38/2023

Samreen Vs. Mohammad Abbas

ORDER (BELOW EXH.13)

(Passed on 10/03/2026)

The plaintiff has filed this application for grant of interim maintenance under Section 151 of the Code of Civil Procedure.

2] It is the contention of the plaintiff that, she is legally wedded wife of the defendant. Their marriage was solemnized on 22.05.2019 according to Muslim rites and traditions. All the expenses of her marriage was borne by her father. Out of said wedlock, they have no child. She married in the same family where her younger sister married. Though, their marriage was taken place in year 2019, but due to death of defendant's mother, his family did not take the plaintiff with them and kept her at the house of her father.

3] It is further contended that, on 23.12.2020 her younger sister got married with her brother-in-law. Thus, she, her sister, the defendant and his brother are residing and cohabiting happy married life at rented house at Kamptee. They were residing in joint family. The defendant behaved properly with her for three months only. Thereafter he changed his behaviour and started to harass her on one or other reason. He started talking about divorce with her. He was under hard influence of his maternal uncle viz. Ehatasham Husain resident of Kamptee. He used to listen his maternal uncle. He used to go and tell all

small and personal things happened between them to his maternal aunt and uncle. Her father had given golden ring and gold ornaments to the defendant at the time of marriage. All these ornaments kept by his maternal uncle. His maternal uncle took Rs.6,00,000/- from her father as hand-loan for work and to buy a car for the defendant or his brother as they did nothing and appropriate the same for his own and not return said amount till date.

4] It is further contended that, in the month of January 2021 his maternal uncle and aunt was called for dinner. At that time his maternal aunt said that 'तुम्हारे पापाने एक ही वॉशींग मशीन और फ्रिज दी, सोफा भी नहीं दिया'. But the defendant never said a single word to his maternal aunt. He used to fight with her on little issue. Even after marriage he used to come from his maternal uncle's house to eat food. He used to give his full earnings to his maternal uncle. He did not give money to the plaintiff for house expenses. As she cut short the conversation with his maternal uncle and aunt, he fought with her on said issue and made distance from her. He ended physical relationship with her. In the month of March-2020 there was programme in the house of her grandmother, at that time she talked with his maternal aunt about the end of physical relationship and gave understanding to the defendant. Instead of giving understanding to the defendant, his maternal uncle and aunt called her father and started telling wrong things about her. In the month of April-2020 he sent her at her father's house. After few days he took a rented house near his maternal uncle's house and shifted all household there. He used to come late at night. He did not eat food at home. If she said something on this issue, he used to fight with her. She tried to take care of her marital relationship, but he did not think about the same. He started to leave at his maternal uncle's house by

leaving her alone at rented house.

5] It is further contended that, in the month of December-2021 his grandmother expired, at that time her younger sister i.e. Nazneen Jehra was six months pregnant, the defendant and his brother left them alone at home and started to reside at their maternal uncle's house. She asked him many times to come back at home, but he did not return back. On second day she went to his grandmother's house to talk with him, that time his maternal aunt was there and she fought with her and told her to get out from the house by making wrong allegations, but he did not say anything. He never pay any attention towards her and never stand with her. He started to reside at the house of his maternal uncle and left her at her own. Elderly people of the family arranged sitting of respectable people (Panch) of the locality. They gave their decision that, as the plaintiff did not accompany with any elder member of the family, they asked her to go at her father's house. It is further decided that, after delivery of her sister, the Panch will have their sitting again and decide this issue finally. Therefore, she along with her younger sister started to reside at her father's house. On 28.01.2022 her sister gave birth to one baby boy, who is unfortunately died. After some days she sent the Panchas to the house of defendant but he and his maternal uncle refused to keep her with them. His maternal uncle asked her father in exchange for taking back home to give his plot and transfer the same in his name. He further asked to pay Rs.15,00,000/- to build house on said plot. Due to such rude and negligent act of the defendant, she went under mental trauma, but he never care for the plaintiff.

6] It is further contended that, she was ready and willing to

live with the defendant, but since the date of marriage his behavior was not at all good with her. He used to torture her and never gave money for house expenses. She wants to save her married life. She also took assistance of Bharosa Cell time to time, but in vain. She is ready and willing to reside with defendant, but he refused her company and compelled her to reside at her father's house. She did not have any source of income. Therefore, she has to live on the mercy of her father. In order to save her married life, she sent legal notice dated 13.02.2023 to the defendant through her Advocate, which served on him on 16.02.2023, but despite receipt of notice he did not come to take her back with him. Therefore, she constrained to file present suit. The suit will take much time to decide therefore she prayed for interim maintenance of Rs.10,000/- p.m. during the pendency of the suit.

7] The defendant has failed to file his say. Hence, the application proceeded without his say vide order dated 09.02.2026 passed below present application.

8] The following points arise for my determination and I record my findings thereon for the reasons stated below :-

Sr. No.	POINTS	FINDINGS
1.	Whether the plaintiff prove that, the defendant neglected or failed to provide her maintenance?	...Yes.
2.	Whether the plaintiff proves that she has no source of income?	...Yes.
3.	Whether the plaintiff is entitled to get interim maintenance as prayed?	...Partly Yes. The plaintiff is entitled to receive Rs.5,000/- p.m. interim maintenance from the defendant.

4.	What order ?	...The application is partly allowed.
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REASONS

AS TO POINTS NO.1 TO 3 :-

9] All these points are interrelated with each other. Hence, I am discussing them together in order to avoid repetition.

10] It is the contention of the plaintiff that, she is legally wedded wife of the defendant. She has filed her marriage card on record which prima facie proves her contention. The defendant has failed to file his say. Therefore, the contention of the plaintiff remained unchallenged in respect of their marital relationship. Therefore, it is an admitted fact that, the plaintiff is legally wedded wife of the defendant.

11] It is the contention of the plaintiff that, the defendant used to harass her and neglected to maintain her despite he is having source of income. The defendant has failed to contest the suit. Therefore, the contention of the plaintiff remained unchallenged. Thus, the plaintiff has prima facie proved that, the defendant neglected to maintain her.

12] It is her contention that, she is ready and willing to reside with the defendant but the defendant is not ready for the same. Therefore, she is residing with her father at his mercy as she has no source of income. The plaintiff submitted in her affidavit of assets and liabilities (Exh.15), that she is studied upto 12th standard. It is also submitted that she has no source of income and she did not getting any maintenance from the defendant in any proceeding. She submitted that

the defendant is studied upto 10th class and he is doing fabrication work and used to earn Rs.25,000/- p.m.

13] The plaintiff submitted that she has no source of income. The defendant has failed to bring evidence in respect of her income. Therefore, the plaintiff has prima facie proved that she has no source of income.

14] Though, the plaintiff has submitted that, the defendant used to earn Rs.25,000/- per month from his fabrication work, but the plaintiff has failed to file any documentary evidence to show his income. But it is admitted fact that the defendant is able bodied person. It is settled position of law that the husband ought to have maintain his wife. Rather it is his legal as well as moral duty to maintain his wife.

15] As there is no exact income proof of income of the defendant, I am considering notional income of defendant. Now a days, one labour used to earn Rs.300/- to Rs.400/- per day, means Rs.9,000/- to Rs.12,000/- p.m. It is an admitted fact that the plaintiff is residing with her father on his mercy. Though, her father has some source of income, the defendant could not neglect or avoid to maintain the plaintiff. Therefore, considering notional income of the defendant, living standard of the parties, daily needs of the plaintiff and prices of essential commodities, in my view, it will be just and proper to grant interim maintenance of Rs.5,000/- p.m. to the plaintiff from the date of application. As per the contention of the plaintiff, the defendant did not provide any financial help to her and therefore, she constrained to file present application. Therefore, the plaintiff is also entitled to get Rs.3,000/- as costs of litigation. Hence, I pass the following order.

ORDER

- 1] Application (Exh.13) is partly allowed.
- 2] The defendant is directed to pay Rs.5,000/- (Rupees Five Thousand only) per month to the plaintiff as interim maintenance from the date of application i.e.07.10.2025 till final disposal of this suit.
- 3] The defendant is also directed to pay Rs.3,000/- (Rupees Three Thousand only) to the plaintiff as costs of litigation.

Kamptee.
Date : 10/03/2026.

(R.R. Sherekar)
Judicial Magistrate First Class,
(Court No.2), Kamptee.

ENDORSEMENT

Case argued on	:	10/03/2026
Order dictated on	:	10/03/2026
Transcription ready on	:	10/03/2026
Order checked and signed on	:	10/03/2026

CERTIFICATE

I affirm that the contents of this P.D.F. File are same word to word as per original order.

Name of Steno :- **Sau. P.A.Nirmal**