

**IN THE COURT OF CIVIL JUDGE JUNIOR DIVISION AND JUDICIAL
MAGISTRATE FIRST CLASS, KAMPTEE.****Misc.Cri.A. No. 510/2018****Priyanka .Vs. Lokesh +3****ORDER BELOW EXH.05****(Passed on 25th September, 2019)**

1] This is an application made by the applicant and thereby seeking ad-interim maintenance from non-applicants to the tune of Rs.15,000/- per month to her and Rs. 10,000/- per month to her daughter i.e. applicant No.2.

2] Perused the application and say thereon given by the non-applicants vide Exh.9.

3] Heard learned Adv. Mr. Kushwaha, representing the applicant and learned Adv. Mr. R.V. Sontakke on behalf of non-applicants.

4] The following points arise for determination and I have recorded my findings thereon with reasons as under.

Sr.No.	Points	Finidings
1.	Whether the applicant prima facie proves that she has been subjected to domestic violence at the hands of the non-applicants ?	... In the affirmative.
2.	Are the applicants entitled for ad-interim maintenance, as prayed for ?	... Entitled for Rs. 1,000/- per month to applicant No.1 and Rs. 500/- per month to applicant No. 2.

		month.
3.	What order ?	As per final order

:- REASONS :-**As to Point No.1 to 3 :**

5] Mr S.M. Kushwaha inviting my attention to the record of the case, submits that, on 24.5.2012, the applicant solemnized marriage with non-applicant No.1 as per their rites and rituals. Non-applicants No. 2 and 3 are the relatives of non-applicant No.1. After marriage she went with non-applicant No.1 for cohabitation at her matrimonial house. Out of the said wedlock, she begotten Aradhya non-applicant No.2. He would submit that non-applicant No.1, soon after two months of the marriage, started saying her that she should not reside in his house. The non-applicant No.1 is given in the vices of liquor. The non-applicant No.1 used to suspect her fidelity saying that she is having extra-marital relation with her brother and they used to send messages to each other. The non-applicants did not provide her medical facility that too in medical exigency.

6] Mr. Kushwaha emphatically submits that non-applicant No.1 due to bad vices of consuming liquor did not do his job properly and after 8 months of the marriage left the job of Collector Building. Non-applicant No.1, however, joined services at Deshonnati Newspaper. However, the parents of applicant No.1 were incurring to and fro expenses of the non-applicant No.1. He would submit that the non-applicants asked the applicant to start the service and when she tried to apply for the same, non-applicant No.1 beat her ruthlessly and throw

her out of the house, compelling her to reside with their poor parents at their parental house. However, as good senses prevailed upon non-applicant No.1, he accepted his request and promised to keep the non-applicant properly, consequently, she again joined company of non-applicant No.1.

7] Mr. Kushwaha has empathetically submits that non-applicant No.1 would caste aspersion against her saying she is infertile (Banz), while non-applicant No.3 asked her mother is 'Nakti' and the family background of non-applicant below lower caste. Not only that non-applicant No.1 thrown away the gift articles given to her in marriage. However, the applicant endured all the harassment meted out to her on the premise that on one or another day the non-applicants would mend their way. However, the non-applicants were incessantly causing physical and mental harassment to her on one or another count. The non-applicants would taunt and demean her saying she has not got sufficient dowry articles from her parents. Due to cruel treatment meted out to her since 22/6/2016 she has been residing with her parents.

8] Mr. Kushwaha submits that the applicant has no income source and she is leaving on the mercy of her parents, whereas the non-applicant No.1 is doing a private job and thereby getting monthly salary to the tune of Rs. 50,000/- per month. Nobody dependent upon the income of non-applicant No.1. The non-applicants caused physical and mental harassment to the applicant, without any rhyme or reason, for no fault on other part, necessitating her to file the application seeking

aforesaid relief, urged by the learned advocate for the applicant.

9] Per contra, Mr. R.V. Sontakke vehemently argued that the grounds mentioned in the application are nothing but fabricated, false and coloured version, made with ulterior motive only to embroil the non-applicant in the present case. He would submit that the non-applicants never ill-treated applicant No.1 as alleged. It is the applicant who used to raise quarrel with non-applicants even for trivial reason every now and then. The applicants did not want to live in the joint family, therefore, she used to pester non-applicant No.1 to reside separately and when he refused to accede to her absurd demand, she used to insult the non-applicants hurling abuses in filthy language. The learned advocate for the non-applicant empathetically submits that it is the applicant who has deserted the company of non-applicant of no fault on his part. According to him, the non-applicant is a teacher at English Convent School and, thereby fetching handsome salary of Rs. 25,000/- per month. On the contrary, non-applicant No. 1 is having no job and suffering financial crunch. Therefore, he is unable to provide separate maintenance to the applicants. Banking upon the above submissions, the learned advocate for the non-applicants submits that the present application lacks merit, thus, it be thrown overboard.

10] I have bestowed upon thoughtful consideration to the submissions made by both the parties across the bar. In limine, I would like to state that the fact of marriage taken place betwixt the parties, is undisputed. Likewise, out of the said wedlock applicant No.1 begotten

daughter child, is also not gainsaid. Before adverting to appreciate the rival contentions of the parties, it is sine-qua-non for me to note that, in view of Sec. 23 of the Act in order to get the relief claimed, the applicant is required to prima-facie disclose the act of domestic violence at the hands of the non-applicants. On this touchstone, I turn to appreciate the respective contentions of the parties. Needless to mention here that the applicant has asserted the facts vis-a-vis domestic violence upon oath supported by supplementary affidavit. Though, the non-applicants contended that the applicant has deserted company of non-applicant no.1 without any plausible reason, yet nothing is brought on record to substantiate their contentions. In this backdrop, I am propelled to hold that, the applicant has prima facie made out that she been subjected to domestic violence at the hands of the non-applicants.

11] Insofar as drawing of income by non-applicant No.1 is concerned, at this juncture, it is important to note here that the applicant has categorically stated that non-applicant No.1 is getting Rs. 50,000/- per month. However, non-applicant No.1 denied the same fact contending that he is a jobless. However, he has placed salary certificate on record, which reflects that he is getting 5350/- Rs. Per month. It is the moral and legal duty of non-applicant No.1 to maintain his wife. I must state that the applicant cannot be left to fend for herself. However, the record does not suggest that the non-applicant is providing money to the applicant for her maintenance. Nothing is brought on record by the non-applicants to disbelieve the contention of the applicant. Having considered and weighed the above stated facts

and circumstances, I have no hesitation to hold that the applicant has succeeded to make out prima-facie case of domestic violence at the instance of the non-applicants. In the sequel, considering living standards of the parties and prevalent inflation, the maintenance of Rs. 1,000/- per month to the applicant No1 and Rs. 500/- per month to applicant No.2 would meet the ends of justice. Resultantly, I answer point no.1 in the affirmative and point no.2 accordingly, and in answer to point no.3 I pass the following order.

ORDER

- 1) The application (Exh.No.5) stands partly allowed.
- 2) The non-applicant no.1 shall pay Rs.1,000/- (Rupees One thousand only) per month to applicant No.1 and Rs. 500/- (Rs. Five Hundred only) to applicant No.2 and as interim maintenance from the date of application till the continuation of trial.
- 3) Copy of order be supplied to applicant, non-applicant No.1 and Protection Officer, free of costs.

Place : Kamptee.
Date: 25/09/2019

(D.R. Bhola)
Judicial Magistrate First Class,
Kamptee.

Endorsement

Case argued on	:	18/09/2019
Order dictated on	:	25/09/2019
Transcription ready on	:	25/09/2019
Order checked and signed on	:	27/09/2019

CERTIFICATE

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

Name of Stenographer : Sau. Vijaya S. Barde(Lr.Gr.)

DISTRICT COURT
NAGPUR