

MHNG100018372022



Order Below Exh.18 In Other Misc.Appli.No.39/2022.

Applicant has filed this application under section 23 of Protection of Women from Domestic Violence Act. She prayed for grant of interim maintenance for herself of Rs.10,000/- and her daughter to the tune of Rs.5,000/- per month.

2. Applicant has leveled several allegations against the respondent. She has contended that her marriage was performed on 19/05/2021 with non-applicant No.1 as per rituals. After marriage she went for cohabitation with non-applicant No.1 and still their marital relation is in subsistence. After marriage non applicant treated her well for one to two months but, after that non applicants No.1 started her ill-treating on count of trifle reason. From wedlock she gave birth to applicant No.02 namely Riya. On dated 20/08/2022 the non applicant No.01 caused dispute with her and beat her by pressing her throat and driven her out of the house. Thereafter, the applicant went towards her parental house and residing under their shelter. Since, that the respondent No.01 never made arrangement for her livelihood. She

does not have any means to maintain her daughter and herself.

3. Whereas, the respondent No.01 owned 05 acre irrigated land and he also taking 20 acre irrigated land on lease. Apart from this he also owned one pick-up vehicle bearing registration No. MH.40, AK-1049. From the entire business respondent No.01 is getting 70,000/- to 80,000/- Rs. per month income. Therefore, he is having ability to pay maintenance as prayed.

4. On the other hand respondent filed his say at Exh.24 and opposed the application. Further, he contended that the applicant was not behaving property and causing dispute without having any reason and residing towards her parents without any reasonable cause. Hence, she is not entitle for maintenance as prayed. The applicant having sufficient means to maintain herself. She completed her graduation and taking stitching classes and from which getting income of Rs. 20,000/- per month hence, prayed to reject the application.

5. Heard learned advocate for the applicant and non-applicant at length. Learned advocate for applicant submitted that applicant does not have any means to maintain herself, hence prayed to grand the application. On the other hand, learned advocate for the respondent submitted that applicant is running

stitching classes and getting income per month Rs.20,000/-. Therefore, she is having sufficient means to maintain herself. Respondent is unemployed thereby he is unable to pay maintenance amount.

6. Perused the application, say and documents on record. At this juncture, it is very difficult to go into the merits of the matter. As per settled law at this stage it is require to be seen only prima-facie case and detail discussion on evidence is not necessary. After going through the present application, it reflects that applicant alleged about the domestic violence at the hand of the respondent on count of trifle reasons. It is also brought on record by the applicant that due to trifle reason respondent No.01 beat her and pressed her throat and driven her out of his house. This obviously would amount to economic and physical abuse of applicant as contemplated in the definition of domestic violence in the Protection of Women from Domestic Violence Act. The marital relation between applicant and respondent No.1 is still in subsistence. Applicant is residing at her parental house. Therefore, at this juncture it would not be unjust to rely upon the facts and circumstances put forth by the applicant.

7. The applicant has filed her asset and liabilities affidavit at (Exh.17). Perused the same affidavit wherein applicant has contended that she is not having any income source. Whereas

respondent also filed affidavit in respect of his asset and liabilities at (Ex.29) wherein he contended that he is unemployed and his monthly income is zero. The applicant contended that the respondent No.01 has owned 05 acre irrigated land and he also owned one pick-up and taking 5 acre land on leased and from which he is getting income of Rs.70,000/- to 80,000/- Rs. per month. But, she has not filed any reliable evidence on record to established the fact. It is the settled principle of law that before imposing the liability on the non-applicant, his financial condition shall be taken into consideration.

8. As per the contention of the applicant she is residing at her parental house. Respondent No.01 being husband, it is his natural duty to maintain his wife and children. He cannot go away from such obligation. Applicant deserves to meet at least her basic living expenses to fulfill her fundamental needs. Respondent contended that applicant is getting Rs.20,000/- form the stitching classed thereby she is able to maintain herself. But respondent has not produced on record reliable evidence that she is getting Rs.20,000/- per month income. Therefore, considering entire discussion made herein above and the present situation on record it is my considered view that if, non-applicant No.1 is directed to pay Rs.2,000/- to the applicant and Rs.1,000/- to applicant No.02 namely Riya towards interim maintenance till the final disposal of the main application, it will be served purpose of justice. Hence, I

pass following order.

ORDER

1. Non applicant No.1 is directed to pay Rs.2,000/- (Rupees Two Thousand only) to the applicant and Rs.1,000/- (Rupees One Thousand Only) her daughter per month toward interim maintenance from the date of application i.e. 10/10/2022, till the final disposal of the case.
2. Copy of order shall be given to the applicant forthwith.

Date :- 15/04/2025.

(R. S.Mankar)
J. M. F. C.(Court No.2),
Umred

CERTIFICATE

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

Name of Court	:-	Jt. Civil Judge (Jr.Dn.) and J.M.F.C., Umred, Dist. Nagpur.
Presiding Officer	:-	R. S. Mankar
Judgment uploaded by	:-	S.B.Ghardinkar(Stenographer L.G.)
Date of Judgment/Order	:-	15.04.2025
Judgment/Order signed by the presiding officer on	:-	15.04.2025