


MHNG120001652024 	<u>Cr.M.A. No. 14/2024</u> Varsha @ Roshani Rajendra Charpe Vs. Rajendra Mahadeorao Charpe
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Order below Exhibit 1

The present application is filed under of the Protection of Women from Domestic Violence Act, 2005 (Herein after referred to as D. V. Act) for multiple reliefs. The present order is with regarding interim maintenance claimed by the applicant under Section 23 of the D. V. Act.

2. It is the case of the applicant that she got married to respondent No. 1 on 18/06/2013 at Sawata Mangalkaryalaya, Narkhed, Tah. Narkhed, Dist. Nagpur. After her marriage she went to reside with respondent No. 1 to 3 at Pandhurna. Her father gave Rs. 1,00,000/- as dowry. Further, a gold pot, gold ring and gold mangalsutra weighing 2 tolas, 3 gram and 2 tolas respectively were also given along with other household articles. Respondent No. 1 was serving at Jalgaon and after 3 month of marriage, applicant went to reside with him at Jalgaon. Respondent No. 1 frequently changed his job and applicant resided with him at Jamner, Odisha, Amravati and Nagpur in this manner for 6 to 7 years.

3. Applicant and respondent No.1 have a child name Bhumit born on 13/12/2015. Initially respondents behaved properly with the applicant and then started harassing her. A demand of Rs. 5,00,000/- as dowry was made. The applicant tried to give understanding that already a lot of loan were taken for marriage expenses and now Rs. 5,00,000/- cannot be given. She was abuse verbally by the respondents by saying “you are a child of beggar, beg around the village and bring money” in Marathi. They also physically assaulted her by fist blows.
4. The applicant was made to do all household work during her pregnancy. She was sent to her paternal house during 6th months of pregnancy. Her father and brother took care of medical expenses incurred during pregnancy and delivery. Respondent No. 2 and 3 used to instigate respondent No.1. The demand for dowry continued and respondent No. 1 dropped the applicant to her parental house. Therefore, on 04/01/2020 the applicant lodged complaint at Police Station, Pandhurna. However, the matter was settled through Mahila cell and applicant along with respondent No. 1 started residing at Nagpur.
5. Respondent No. 1 behaved properly for few days and then started ill treating the applicant. In April, 2023 the respondent No. 1 forcefully sent their son Bhumit to his grand

parents house at Pandhurna. After 15 days applicant told respondent No. 1 that she want to meet their son, but respondent No. 1 did not come to their home at Nagpur for 4 to 5 days. Thereafter, applicant lodged complaint at Police Station, Narkhed and the matter was referred to Mahila Cell, Katol. Before the Mahila Cell Katol, respondent No. 1 denied cohabiting with the applicant. Therefore, applicant is constrained to file this application.

6. Respondent No. 1 has well irrigated agriculture land at Pandhurna and getting income of Rs. 5,00,000/- per year from the agricultural land. He also runs a business of rock salt and black salt under the name 'Ashtmurti' at Pandhurna and earns Rs. 45,000/- per months. Further, he is also getting rental income of Rs. 30,000/- per months from tenanted premises. Where as the applicant has no source of income and prays for Rs. 15,000/- per months as interim maintenance.

7. On the other hand, respondent No. 1 to 3 filed their say at **Exh. 14**. Respondent No. 1 to 3 have denied the contentions raised by the applicant vide reply at Exh.14. The marriage is admitted by respondent No. 1. It is the case of the respondents that soon after marriage after Satyanarayan Pooja, the applicant took all belongings and left home at midnight and called her father. Her father took her on the next day. Thereafter, the father of the applicant brought her back for

cohabitation after 15 days. Respondent No. 1 took the applicant to Jalgaon with him. Respondent started doubting whether the applicant is mentally ill. Applicant is scared of mouse and lizard. Respondents came to know that the brother of the applicant had taken her to Dr. Bang Hospital, Nagpur for mental treatment and thereafter, she was sent to Jalgaon.

8. As the applicant was mentally ill, respondent No. 1 had to leave his job. She did not take proper care of her child. The expenses of delivery was totally taken care of by respondent No. 1. Thereafter, the applicant was brought to Jamner. For 2 years she resided with respondent and started doubting the respondent. Applicant and respondent stayed at various places. However, since the mental condition of the applicant was not proper she kept fighting with the respondents. In the year 2020 she filed false complaint against the respondents. Considering the mental illness of the applicant may cause wrong effect on their child, after consultation with the parents of the applicant, their son was sent to reside with his paternal grandparents at Pandhurna. The applicant only listens to her brother and no one else. The applicant has received all these Stridhan back. The applicant has always given mental and physical trouble to the respondent. The respondent is earning nearly 200 to 250 per day by labour work. Hence, he is not in a position to give any maintenance.

9. Heard Ld. Advocate Mr. U. R. Khante for the applicant and Ld. Advocate Mr. M. P. Tiwari for the respondents. Perused the application and say filed there on. Perused affidavit of assets and liabilities of applicant at **Exh. 18** and respondent No. 1 at **Exh. 19**. In view of the arguments advanced by the parties and application and say filed on the record following points arise for my determination:

Sr. No	Points	Findings
1.	Whether the applicant has prima facie proved that she is a victim of domestic violence at the hands of the non-applicant No 1?	Yes
2.	Whether the applicant is entitled to claim maintenance from the non-applicant ?	Yes
3.	What order?	Partly allowed

Reasons:

As to point No.1

10. It would be pertinent a note that in order to claim maintenance the applicant has to prove that she was subjected to domestic violence as defined under section 3 the Protection of Women From Domestic Violence Act 2005. The definition of

domestic violence as defined under the Act is quite exhaustive and it includes mental as well as physical cruelty.

11. The present application is filed for grant of interim maintenance under section 23 of the Act. This being interim stage the allegations made in the application have to be adjudged in accordance with statement on oath made by respective parties. The court has to form prima facie opinion as to commission of domestic violence at hands of non-applicant . Proof of the allegations are matter of evidence to be decided at trial.

12. The veracity of the allegations levied against the respondents in the said complaints as well as in the present application are matters which will be looked into in detail at the time of evidence. The applicant has stated that she filed complaint at Police Station, Pandhurna and Police Station, Narkhed, Dist. Nagpur. Thereafter, she also approached Mahila Cell, Katol. This fact is reiterated by the respondents in their say at **Exh. 14**. Based upon the fact that the applicant had taken recourse to filing complaint before the Court against respondent No. 1 for subjecting her to cruelty and domestic violence and considering the overall statements made by the applicant on oath, I am prima facie satisfied that the applicant is victim of domestic violence at the hands of respondent No.1. Hence, I answer as to point No. 1 in the affirmative.

As to Point No. 2:

13. respondent No. 1 to 3 have opposed the grant of maintenance to the applicant on the grounds that the respondent is earning Rs. 200/- to 250/- per day and works as a labourer. It is no were stated by respondent No. 1 that applicant is in a position to maintain herself. Applicant has filed her statement of asset and liabilities at **Exh.18**. Wherein, she has stated her monthly expenditure as Rs. 10,000/- per months. Respondent No. 1 has filed his affidavit of assets and liability at **Exh. 19** and claim that he has no source of income. However, the applicant has failed to adduce any evidence or file any document showing the income of respondent No.1 as claimed in the application and **Exh. 18**. The respondent has failed to show that he has no source of income in order to maintain the applicant.
14. It is well settled legal position that the wife that the wife and children are to be paid maintenance by the husband. It is further held that it If the husband is able bodied person, he has legal obligation to maintain his wife. Husband cannot escape the liability of maintenance merely by stating that by stating that he has no income and he has other financial obligation. The onus is on husband to prove that he is unable to maintain his family due to reasons beyond his control. It is

also well settled legal position that the property of the in laws is not relevant while granting maintenance.

15. In the present case I am of the prima facie opinion that the non-applicant is able bodied police personnel who can maintain his wife and child. There is no evidence to show that applicant has any source of income. As a husband and father it is the responsibility of respondent No. 1 to maintain the applicant considering today's inflation rates. In the asset and liability affidavit filed by the applicant No. 1 at **Exh. 19** states that he has no source of income. In view of the above discussion, I answer point no. 2 in affirmative.

As to Point No. 3:

16. The Hindu adoption and maintenance Act defines the term "maintenance" to include provision for food, clothing, residence, education.
17. A normal labourer earns around Rs. 500/- daily at least which is much less than the prescribed daily wages for unskilled labours. Even if it is assumed that the applicant works as a unskilled labour for 6 days a week, his income is Rs. 12,000/- per month considering 24 working days in a month. Hence, keeping his expenses aside as well as expenses of his parents he can at least spare Rs. 3000/- per month as maintenance for applicant. Moreover, the expenses of food per

month of applicant must be around at least Rs. 2,000/- per month and clothing Rs. 1000/- per month. There arises no question of shelter expenses as she is residing with her parents as admitted in the itself. There is no reason shown by the applicant as to why she herself is not earning or working. It was held by the Hon'ble High Court of Karnataka in *Shiplashree J.M. v. Gurumanjunatha A.S., Criminal Revision Petition No. 1324 of 2015* that a wife capable of earning cannot be granted entire maintenance if she is willfully remaining idle and entitled only for supportive maintenance. Therefore, I am inclined to grant maintenance under the following heads:

18. Therefore, I am inclined to grant maintenance under the following heads to applicant:

Food : Rs. 2,000/-, clothing : Rs. 1,000/- The total interim maintenance of the applicant per month in view of the above heads is Rs. 3,000/- (Rs. Three Thousand Only). In view of the above discussion, I answer point no. 3 in partly affirmative and record my findings on.

ORDER

1. Application for interim maintenance as per Section 23 of the Protection of Women from Domestic Violence Act, 2005 in Cri. M. A. No. 14/2024 is partly allowed.
2. Respondent No. 1 is directed to pay to the applicant a sum of Rs 3,000/- (Rs. Three Thousand Only) per month from date of filing of the present application till disposal of the case.
3. Copy of the order be given to the applicant.

(Dictated and pronounced in open Court.)

Date : 27/11/2025
Place: Narkhed, Dist. Nagpur

(**Rohan Vijaykumar Thayil**)
Judicial Magistrate, First Class,
Narkhed, Dist. Nagpur