

Misc.Criminal Application No.132/2017

**(CNR No.MHNG14-000544-2017)**

Reeta/Ramesh & others

**Order below Exh.1**

(Passed on 22<sup>nd</sup> day of March, 2018)

1. The applicant has filed this application under section 12 of the Protection of Women from Domestic Violence Act, 2005 against the non-applicants, wherein she has claimed interim maintenance to the tune of Rs.5000/- per month from the non-applicant no.1 till the decision of main application.

2. The facts of the case, in short, can be summarized as under:-

The marriage of applicant was solemnized with non-applicant no.1 on 19.05.2013. After the marriage of applicant, she learnt that the non-applicant no.1 has illicit relations with one lady namely Geeta of the village and on that count the non-applicant no.1 started illtreating her by beating her under the influence of liquor. So also, other non-applicants despite having knowledge of aforesaid illicit relations took favour of the non-applicant no.1. The non-applicant no.1 used to assault and threaten the applicant for resisting his illicit relations with aforesaid Geeta and other non-applicants used to instigate him for the same. The non-applicant no.1 has forcibly taken away their son Priyanshu from the applicant. When the applicant alongwith her brother went to meet her son, the non-applicants insulted and beat them. At present, the applicant is residing at the mercy of her parents and she is unable to maintain herself. Contrary, the non-applicant is an agriculturist and derives Rs.15,000/- per month from it. Since their desertion, the non-applicant no.1 has not paid any single pie to the applicant for her maintenance.

3. The non-applicant no.1 has filed his reply Exh.11 to the main application. He has admitted his relations with the applicant, but he denied that he ever beat the applicant and that he has illicit relations with one lady namely Geeta, as alleged by the applicant. He has specifically submitted that on 17.05.2016 the applicant went away alongwith all the gold ornaments, leaving their child. The non-applicant no.1 took search of applicant, but could not found her. Consequently on 18.05.2016 he lodged report with the Nandanwan Police Station. The applicant went away leaving their 6 months baby namely Priyanshu with the non-applicant and since then she did not pay any attention towards their baby. The non-applicant no.1 has took care of their son Priyanshu till his death. According to non-applicant no.1 he is a dailywage labourer, so also his old aged parents are dependent upon him for their livelihood. On the contrary, the applicant is a matriculate, so also she is efficient in stitching work. Apart from it, the non-applicant no.1 is ready to maintain the applicant. Therefore, the applicant is not entitled for any interim maintenance from the non-applicant no.1.

4. Heard learned advocates for both the sides. Perused record.

5. Following points are formulated for my determination and I record my findings against each of them for reasons to follow:-

<b>SN</b>	<b>Points</b>	<b>Findings</b>
1	Whether the applicant is entitled for interim maintenance ?	Yes.
2	If yes, what would be the quantum ?	Applicant is entitled for interim maintenance from non-applicant no.1 to the tune of Rs.500/- p.m.
3	What order ?	Application is partly allowed as per final order.

## **REASONS**

### **As to point no.1:**

6. At the outset, it is pertinent to mention here that the non-applicant no.1 has not disputed his marriage with the applicant. So also, it is admitted position on record that at present the applicant and non-applicant no.1 are residing separate. Apart from it, the applicant has stated on oath that the non-applicant no.1 has deserted her. Thus the admitted position as regards relations of applicant and non-applicant no.1 and their separate residence coupled with the main application supported by an affidavit of applicant lead me to infer in an abundant manner that the relations between the applicant and non-applicant no.1 are strained, presently they are residing separate and the applicant has no source of income. Under such circumstances, the non-applicant no.1 is duty bound to pay interim maintenance to the applicant, till the disposal of main application. I, therefore, answer my findings as against point no.1 in the affirmative.

### **As to point no.2:-**

7. The applicant has stated on oath that the non-applicant no.1 is an agriculturist and earns Rs.15,000/- per month. But except her bare pleadings, she has not filed any document on record to substantiate her claim. Contrary to this, the non-applicant no.1 has submitted that he is a dailywage labour, which means that he is an able bodied person. Being an able person, if income of the non-applicant no.1 is considered Rs.100/- per day, it comes to Rs.3000/- per month. Thus he has sufficient means to provide interim maintenance to the applicant during the pendency of this

petition. But at the same time, the non-applicant no.1 has stated that he has to maintain his old aged parents. The above liability of the non-applicant no.1 certainly incurs some amount. Thus having regard to the income of non-applicant no.1 and his liability towards his old parents, in my opinion, an amount of Rs.500/- per month towards the interim maintenance of applicant would meet the ends of the justice. I, therefore, answer my findings as against point no.2 accordingly and proceed to pass the following order -

### **ORDER**

1. The prayer of applicant for interim maintenance under section 23 of the Act is hereby allowed.
2. The non-applicant no.1 is hereby directed to pay Rs.500/- (Rupees Five Hundred only) per month as interim maintenance to applicant from the date of this application.
3. The copy of this order be supplied to both parties free of costs.
4. The protection Officer appointed under the Protection of Women from Domestic Violence Act, 2005 shall ensure the compliance of this order.
5. Both the parties are directed to cooperate for expeditious disposal of this matter.

Parseoni.  
Date-22.03.2018.

(S.D.Wankhede)  
Judicial Magistrate First Class, Parshioni.

### **CERTIFICATE**

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

**Name of Stenographer**-Abhijit Yeshwant Kulkarni