

MHNG160010322021



ORDER BELOW EXH.9
(Date- 18.01.2024)

- 1] This is an application under section 23 of the Protection of Women from Domestic Violence Act 2005 praying for grant of interim maintenance to the applicants.
- 2] Learned advocate for the applicants submitted that applicant got married to Respondent No.1 on 16.06.2021 as per Hindu rites and rituals. The respondents treated applicant nicely for some time after marriage. Thereafter they started physically, emotionally, and economically abusing her. The respondents used to pressurize her to bring chain, ring and other dowry articles from her parental house. They also used to insult her physical appearance. The respondents forcefully sent the applicant to her parental house in September 2021 and did not allow her to return to her matrimonial house since then.
- 3] The respondents never spent even a single penny towards maintenance of the applicant after sending her to her parental house. The applicant was living on the mercy of her parents for her survival. Hence, he prayed that the respondents be directed to pay Rs. 10,000/- per month towards the interim maintenance of the applicant.
- 4] The respondents filed their reply to the present application at Exh.11. They stated that the applicant used to ill-treat and quarrel

with the parents and relatives of respondent No.1 over petty issues. She even used to hurl abuses at them when they tried to convince her to co-habit properly with respondent No.1. Respondent No.1 was dependent on his mother for his own survival. His mother used to run a grocery shop one of his brother was specially abled and his other brother used to help his mother in running the grocery shop. He did not have any other source of income. The applicant has initiated false proceedings against the respondents. Hence, they prayed that the application be rejected.

5] Perused the application (Exh.9), say (Exh.11), domestic incident report (Exh.11), affidavit of assets and liabilities of the applicant (Exh.12). The respondent No.1 did not file his affidavit of assets and liabilities. Considering the rival submissions of both the parties following points arise for my determination and my finding thereon along with reasons are as follows :-

Sr. No.	<u>Points</u>	<u>Findings</u>
1	Whether the applicant prima facie proves that she was subjected to domestic violence by the respondents?	...Yes
2	Whether the applicant is entitled for interim maintenance of Rs. 10,000/- each per month from the respondents ?	Yes, for an amount of Rs.3000/- to the applicant.
3	What order?	...As per final order

REASONS

AS TO POINT NO. 01 :-

6] In the present matter, the domestic relation between the parties is not disputed. It is also not disputed that the applicant is residing separately since September 2021. The applicant has stated various instances of domestic violence such as hurling of abuses by the respondents, insult over physical appearance, demand for dowry etc. All these incidents not only prima facie constitute physical abuse but also amount to emotional and economic abuses. It prima facie appears from the averments in the application supported by affidavit that she was compelled to leave the matrimonial home in September 2021 by the respondents due to domestic violence caused to her. No ordinary prudent married women would leave her matrimonial house unless there are circumstances compelling her to do so. Moreover, respondent No.1 has not disputed the fact that he had not made any provision for the maintenance of the applicant since September 2021. This fact also prima facie amounts to economic abuse. Therefore, at present, the averments in the application are sufficient to prima facie show that the applicant is victim of Domestic Violence. In turn, I answer point No.1 in the affirmative.

AS TO POINT NO. 2 :-

7] The applicant is the legally wedded wife of respondent No.1. Therefore, he is under legal and moral obligation to maintain her. Advocate for the applicant submitted that respondent No.1 had a big house. The respondents had the grocery shop and decoration business.

No one was dependent upon him. On the other hand, the applicant was not much educated. She was living on the mercy of her parents. Hence, he prayed that respondent No.1 be ordered to pay Rs.10,000/- per month to the applicant for her interim maintenance.

8] On the other hand, learned advocate for the respondents submitted that respondent No.1 had also studied till 12th standard. He was dependent on his mother for his own maintenance. Hence, he prayed that the matter be decided on merits and the present application be rejected.

9] Perused the affidavit of assets and liabilities of the applicant (Exh.12). It appears that though the applicant is claiming that respondent No.1 has a grocery shop and runs decoration business, there is nothing on record to support the claim. Therefore, there is nothing on record to show the monthly income of respondent No.1. However, respondent No.1 cannot escape his liability to maintain his wife. This obviously would amount to economic abuse of the applicant as contemplated in the definition of domestic violence in the Protection of Women from Domestic Violence Act.

10] As already discussed, there is nothing on record which shows the income of respondent No.1 and the applicant. In such a case, inference as to income of the parties needs to be drawn and some guess work has to be done. Thus, presuming respondent No.1 to be an able bodied person and considering the education level and financial status of the parties, needs of the applicant including medical expenses, interim maintenance of Rs. 3,000/- per month to the applicant would

serve the ends of justice. Admittedly, even after filing of this application, respondent No.1 made no provision of the maintenance of the applicant. Therefore, the benefit of this order has to be given to the applicant from the date of application. Hence, I answer point No. 2 accordingly.

AS TO POINT NO. 03 :-

11] In view of above discussion, I pass the following order;

ORDER

1. The application is partly allowed.
2. Respondent No.1 is directed to pay Rs. 3,000/- (Rupees Three Thousand only) per month towards interim maintenance to the applicant from the date of this application till disposal of the main application.
3. The copy of this order be given to parties free of cost.
4. Copy of this order be sent to the concerned Police Station and Protection Officer.

Date :18.01.2024

(A.B. Kadian)
Judicial Magistrate, First Class,
Mouda

Endorsement

Case argued on	:	18.01.2024
Order dictated on	:	18.01.2024
Transcription ready on	:	18.01.2024
Order checked and signed on	:	18.01.2024

CERTIFICATE

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

NAME OF STENO :- MRS. M.D.SINGH (GR.III)