

MHNG160012202022



ORDER BELOW EXH.10
(Date- 13.03.2024)

1. This is an application filed under Section 23 of the Protection of Women from Domestic Violence Act 2005 for the grant of interim maintenance to the applicant.
2. Ld. Advocate for the applicant submitted that the applicant got married with Respondent No.1 on 22.06.2020 as per Hindu rites and rituals. The respondents treated the applicant nicely for two months after marriage. Thereafter they started physically, emotionally, and economically abusing her. They used to taunt the applicant over her physical appearance and skin colour. They used to throw her out of her matrimonial house and even filed false complaints against her.
3. Ld. Advocate for the applicant further submitted that in May 2021, the respondents threw the applicant out of her matrimonial house. The applicant stayed for two days in the shed for keeping goats. Thereafter, she called her father and went with him to Ghotmundhari on 12.05.2021. On 20.05.2021, she was called at Aroli police station for recording her statement but the respondents compromised the dispute with her. On 28.05.2021, she again went to her matrimonial house. However, at 10.00 p.m. on the said day respondent No.1 left

from there and did not return. On 29.05.2021 the brother-in-law of the applicant again threw her out of the said house. The applicant kept waiting for respondent No.1 but he did not return. Therefore, she went to her parental house. She further submitted that the applicant tried to find out the whereabouts of respondent No.1 and came to know that respondents No. 1 to 3 were residing in the house of respondent No.5 at Parshioni. Therefore, the applicant went there to meet respondent No.1 but the respondents threw her out from the said house and threatened to kill her. Respondent No.5 used to abuse the applicant and ask her to give divorce to respondent No.1.

4. Ld. Advocate for the applicant further submitted that she was residing with her parents since 29.05.2021. The respondent No.1 neither took any care of the applicant since then nor spent a single penny for her maintenance.

5. The respondents filed their reply at Exh.14 and submitted that the applicant resided in the joint family for only two months. Thereafter, she started insisting for residing separately. Respondent No.4 was already residing separately and respondent No.5 used to reside at Parshivni, District Nagpur. The applicant did not do any household chores and used to talk to the parents of respondent No.1 in an insulting manner. The applicant had beaten respondent No.1 several times with slippers and also used to quarrel with respondents No. 2 and 3. The applicant did not allow respondent No.1 to come close to her for physical relations and used to threaten him to put chilly powder in his eyes if he attempted to come close to her. She used to threaten the

respondent to drink poison and commit suicide. On 10.10.2020, she voluntarily left her matrimonial house and went to her parental house. Thereafter, her parents brought her back and on 13.11.2020, an agreement was prepared before the Tanta Mukti Samiti and the applicant signed the said agreement. However, after few days, she again started quarreling with the respondents. On 16.12.2020, she refused to serve food to respondents No. 2 and 3 and threatened to give false complaint against them at the police station. Therefore, respondent No.2 filed complaint against the applicant at Aroli police station on 16.12.2020. Thereafter, respondents No. 2 and 3 left the said house and went to stay with respondent No.4.

6. It is further the case of the respondents that on 06.12.2020, the applicant hurled abuses at respondent No.1 and beat him for transferring his agricultural land and house in her name. On 13.05.2021 at about 8.00 a.m., the applicant left her matrimonial house without informing anyone. On 16.05.2021 her father intimidated respondent No.1 that the applicant was residing with him. Therefore, on 18.5.2021, respondent No.1 lodged complaint at Aroli police station. The applicant called sister and sister-in-law of respondent No.1 and abused them. Therefore, on 03.02.2021, Priya Rakhade filed complaint at Aroli police station. The applicant had voluntarily left her matrimonial house. She had taken with her all the gold ornaments given to her by the respondents at the time of marriage. Respondent No.1 used to work as a labourer and earned Rs.2000 to 3000 per month. Respondents No. 2 and 3 were dependent upon him. Therefore, he did not have the financial capacity to pay for the maintenance of the

applicant. Hence, they prayed for rejection of the application.

7. Considering the rival submissions of the parties and on perusal of the application, say, affidavits of assets and liabilities (Exh.17 & 18) and the accompanying documents, following points arise for my determination and my findings 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. 15,000/- per month from the respondents ?	Yes, for an amount of Rs.3000/-from respondent No.1.
3	What order?	...As per final order

REASONS

AS TO POINT NO. 01 :-

8. The marriage of the applicant with respondent No.1 was solemnized on 22.06.2020. The respondents have admitted their relations with the applicant. Therefore, the matrimonial relationship between the applicant and respondent No.1 is not disputed. It is also not disputed that the applicant is residing separately since 29.05.2021. The applicant has stated various instances of domestic violence such as beating and throwing her out of the matrimonial house, keeping her

hungry for two days in the shed meant for goats, economical abuse by not providing for her maintenance, emotional abuse and humiliation over physical appearance and face complexion etc. It prima facie appears from the averments in the application supported by affidavit that she was compelled to leave the matrimonial home on 29.05.2021 by the respondents due to domestic violence caused to her. In order to prima facie prove the incidents of domestic violence, applicant no.1 has filed copy of N.C. registered at Aroli police station, Nagpur against the respondents. This fact is sufficient to establish that prima facie, the applicant has been subjected to domestic violence by the respondents.

9. 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 13.05.2021. This prima facie amounts to economic abuse. On the other hand, the allegations of the respondents regarding the conduct of the applicant are not supported by any document. 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 points No.1 in the affirmative.

AS TO POINTS NO. 2 :-

10. 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 the respondents had 14 acres of agricultural land and respondent No.1 used to sell onions and

potatoes in the vegetable market. He used to earn Rs.40,000/- per month from the said business. On the other hand, the applicant had studied till 12th std. She was living on the mercy of her parents. However, recently her parents met with an accident and she had to look after their medical and other expenses. Hence, she prayed that the respondents be ordered to pay Rs.15,000/- per month to the applicant for her maintenance.

11. On the other hand, learned advocate for the respondents submitted that respondent No.1 used to work as a labourer. Respondent No. 2 and 3 were dependent upon him. Respondent No.1 hardly earned Rs.3000/- per month from his work. Therefore, he did not have the financial capacity to pay Rs. 15,000/- per month to the applicant for her maintenance.

12. To show the monthly income of the respondents, the applicant has filed verified copies of 7/12 extracts of several properties on record with the list of documents at Exh.12. On perusal of the said 7/12 extracts, it appears that none of the said properties are in the name of respondent No.1. At this stage, it is not clear whether or not the said properties are ancestral properties of the respondents and whether respondent No.1 has any share in the said properties or not. Therefore, no inference regarding the financial capacity of respondent No.1 can be drawn on the basis the said documents. The applicant has not filed any other document to show the financial capacity of respondent No.1. However, the respondent 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. It would be therefore just and proper to grant interim maintenance to the applicant u/s. 23 of the said Act.

13. As already discussed, as there is nothing on record which shows the income of respondent No.1 or the applicant, inference as to income of the parties needs to be drawn on the basis of their educational level and financial back ground. Respondent No.1 has claimed that his monthly income was Rs.3000/-. However, his claim is contrary to the provisions of the Minimum Wages Act. The affidavit of assets and liabilities filed by respondent No.1 (Exh.18) shows that he has studied till 5th standard. Therefore, presuming him to be an able bodied person, it can be reasonably inferred that he must be earning Rs.15,000/- per month by doing the work of a labourer. Therefore, considering that respondents No. 2 and 3 are also dependent upon him, 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 for 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.3 -

14. In view of my findings with respect to points No. 1 and 2, I pass the following order :

ORDER

1. Application is partly allowed.
2. Respondent No.1 is directed to pay Rs. 3,000/- (Rupees Three Thousand only) per month to the applicant towards her interim maintenance 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.

(A.B. Kadian)

Judicial Magistrate, First Class,

Mouda

Date : 13.03.2024