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PWDVA No. 17/2025
Monica Mukherjee Vs
Reetjit Mukherjee

MHNS050007922025



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Monica Majumdar Mukherjee Vs
Dy Comdt Reetjit Mukherjee

ORDER BELOW EXH.5

This is an application filed for granting interim maintenance as well as protection along with relief of rent during the pendency of this application.

02) It is submitted by the applicant that her marriage was solemnized with respondent no.1 on 07/02/2022 as per Hindu Marriage Act at Siliguri. After marriage, she went for cohabitation at his official accommodation Porbandar and Siliguri. The applicant alleges that her parents gifted her gold ornaments and various household items to respondent no. 1 as part of the marriage. Despite this, she alleges that she was humiliated by the respondents for not giving adequate dowry. She was ill-treated physically, mentally for unlawful demand. The applicant has reported incidents of physical, mental, emotional, and sexual abuse, allegedly under the influence of

drugs. On several occasions, the respondents denied her food. She recounts incidents of being beaten, burned, and having boiling water thrown at her, which led her to leave the matrimonial home. Since 2024, she has been living in her parental home on rent, during which time respondent no.1 has not provided her with any financial support. Respondent no.1 is employed as a Deputy Commandant in the Coast Guard and earns a substantial salary of Rs. 1,00,000/- per month. On the contrary, the applicant has no source of income. Therefore, she prayed for maintenance of Rs.30,000/- per month as well as interim protection order. She also prayed the rent owed to her father.

03) The respondent appeared and filed their reply at Exh.16. They have denied the contentions of the application, except admission of their relationship with the applicant. Respondent No. 1 has admitted that their marriage was solemnized on 07/02/2022. However, he denied the other allegations mentioned in the application. They never demanded any form of dowry from the applicant, and Respondent No. 1 has never physically assaulted her. Instead, he contended that her behavior within the family was quite arrogant. The applicant is reportedly addicted to smoking, which he believes

has led to her financial needs being prioritized. She sought interim maintenance, taking great pride in her father's financial status. The applicant frequently attended parties where she consumed alcohol and smoked, and Respondent No. 1 objected to her behavior. Therefore, he asserts that she has filed a false application. Furthermore, the applicant took all her valuable ornaments and jewelry with her when she left the matrimonial home. The respondent stated that he never demanded any dowry, as he is a central government employee from a well-cultured and educated family. He is already burdened with a loan repayment, and his monthly expenses amount to Rs.97,777/-. Therefore, it is impossible for him to pay any maintenance. The applicant works as a teacher and is earning her own income, indicating that she is capable of maintaining herself. She is currently residing at her parental home due to her own conduct and has refused to live with Respondent No. 1 without justified reason. Hence, respondents are under no legal obligation to pay interim maintenance to the applicant. Hence, they prayed to reject this application.

04) Perused the application and reply of the respondents. Heard both sides.

05) The respondent have filed the judgment of Hon'ble High Court of Santosh Kahniyyalal Sharma Vs. State of Rajasthan 2017 CJ(Raj) 683, Preeti Gupta and Anr Vs. State of Jharkhand and Anr 2010 CJ(SC) 2303 and Kailash Chandra Agrawal and Anr Vs. State of U.P. and ors. 2014 CJ(SC) 622.

06) Section 23 of the Protection of Women from Domestic Violence Act, 2005 (hereinafter referred to as the D.V. Act 2005) empowers the Magistrate to pass interim and ex-parte order if the application demonstrates a prima facie case of domestic violence. At this stage, the court is not required to conduct a detailed trial. Instead, the court must evaluate whether the application and accompanying materials such as affidavits, police reports, and medical documents indicate a prima facie existence of domestic violence as defined under Section 3 of the D.V. Act 2005. Thus, establishing prima facie satisfaction is essential when considering applications filed under Section 23 of the D.V. Act, 2005.

07) In assessing the allegations made in the application, the court must determine whether the applicant is currently facing violence or requires immediate protection, maintenance, or rent. The court must consider the financial capacity of the

respondent and the conduct of both parties, taking into account whether the allegations are supported by evidence such as medical records, police complaints, photographs, affidavits, and audio or video recordings.

08) In light of the aforementioned considerations, the applicant has produced her marriage registration certificate, which clearly indicates that her marriage to respondent no. 1 took place on 07/02/2022, in West Bengal which is not disputed by respondent. She has submitted photocopies of gold ornaments that she alleges that it were forcibly taken by the respondent and his family. The applicant has also filed photographs that appear to show injuries to her foot and a burn mark on her leg. Furthermore, she has produced MRI reports of her dorso-lumbar spine and cervical spine. The applicant reported the alleged mental and physical torture she suffered at the hands of the respondent to Inspector Bharosa Cell in Nashik on 16/04/2024. Consequently, an FIR was registered vide crime no. 355/2024 at the Upnagar police station for offenses punishable under sections 498A, 406, 323, 504, 506, r/w 34 of the IPC against the respondents. The allegations made in the application are supported by the police report, affidavits, and photographs that prima facie indicate

injuries on her body. Therefore, as their relationship is not contested and it is established that the respondents were in a domestic relationship with the applicant, the claims of physical assault are, at first glance, substantiated by the provided documents.

09) So far as, the contention of the respondent is concerned, the applicant is addicted to smoking and consumes alcohol at parties, and that her behavior is inappropriate, the respondent claims that she frequently attends parties with friends, which he opposes. Consequently, the respondent argues that the applicant has submitted a false application. However, this contention cannot be accepted at this stage without giving an opportunity to produce evidence from both sides.

10) The applicant claims interim maintenance of Rs.30,000/- and rent of Rs.15,000/- per month. She has also claim interim protection from the respondents. In view of above discussion, the applicant prima facie satisfied that there is domestic violence against the applicant. Considering the fact, I find necessary to pass interim protection order in favor of the applicant for her safety.

11) So far as, maintenance is concerned, she has alleged that respondent no.1 earns more than Rs.1,00,000/- per month. She is incapable to maintain herself. Therefore, she claim Rs.30,000/- per month.

12) Perused the assets and liability filed by the applicant wherein she has discloses her monthly income Rs.20,000/- and expenses of Rs.88,400/-. The assets and liability filed by the respondent no.1 discloses his monthly income Rs.1,00,000/- and he is having liability to pay the loan amount and monthly expenses of mess, transportation, fuel is Rs.30,000/-. In his reply, he stated that his total monthly liabilities amount to Rs.97,777/- which includes the loan repayment. In view of the above discussion prima facie, the allegations of domestic violence is supported by the affidavit, police report and photographs. Main application would required time to decide on merits till then it is necessary to protect the applicant from the physical abuse as well as it is also to give interim maintenance.

13) Ld. Advocate for the respondent no1. contended that if the women is earning more than Rs.14,000/- then she has no right to claim maintenance. Admittedly, her monthly income is

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Rs.20,000/- . However, while considering this application the court has to see the lifestyle of the applicant. Considering the status of the parties and monthly expenses, it is necessary to pass an order of Rs.12,000/- as a interim maintenance. Hence, I pass following order.

ORDER

1. The respondent no.1 is directed to pay interim maintenance of Rs.12,000/- per month to the applicant from the date of this application till the disposal of the application.
2. The respondents are hereby directed not to make any contact with the applicant during pendency of this application.
3. The respondent no.1 to 5 are restrained from committing any act of domestic violence during the pendency of the application against the applicant.
4. Copy of this order be forwarded to police station as well as production order for necessary compliance.

Date :12.11.2025

(N.K.Meshram)
Judicial Magistrate First Class,
(Court no.2) Nashik-Road