

P. W. D.V. Application No.41/2019.

ORDER BELOW EXH.03.

[Ujwala Sachin Madhavai Vs. Sachin Dnyandeo Madhavai and others]

1. This application is filed under Section 23 of the Protection of Women from Domestic Violence Act, 2005 (herein after this is referred to as the D.V. Act) for seeking interim monetary relief

In short the case of applicant is as under:

2. It is submitted on behalf of the applicant that the respondent No.1 is her husband. Their marriage is solemnized on 09/05/2015 at the village Kusumadi, Tal. Yeola, Dist. Nashik. Out of said wedlock, they have an issue, namely Eshwary, i.e. applicant No 2. After marriage, for initial few days respondents treated applicant No.1 well. Thereafter, respondents started assaulting and abusing applicant No.1 for trifle issues. Respondents were not allowed applicant No.1 to eat. Respondents used to say that the applicant was of no use. Respondents used to say that the applicant's parents did not give dowry. Respondents had made an illegal demand of Rs.50,000/- for purchasing two vehicles. Respondents, on 14.09.2019, tried to kill her. Hence, applicant No. 1 has made complaint against the respondents at the City police station. Respondents had tried to kill the applicant, hence, the applicant lodged the complaint at the city Police station. Respondents did not care for the applicant during her pregnancy. Respondents used to allege that the applicant No.1 stole gold and groceries. The respondent used to abuse the applicant's parents and insult them. Respondents used to say that she did not cook properly. Respondents did not provide any food to applicant No.1. The respondent harassed the applicant on various grounds. The respondents has drove away out the applicant from her matrimonial house. Therefore, they reside at her parents' house.

3. It is further contention of the applicants that respondent No.1 left the applicant's company without any reason. Respondent No.1 has ample sources of income. Respondent No.1 has an agriculture land bearing Gat no 224 and 224/3. He

sells milk and gets Rs.50,00/- to 60,000/-. Respondent No.1 has not made any financial arrangements for her livelihood despite having sufficient means of income. Hence, she requested that the application be allowed as per her prayer.

4. Respondents objected to the application by filling their say below Exh.22. Respondents denied all the contents of the application in toto. However, they have not disputed the relationship between applicants and themselves. It is further submitted that the applicant used to initiate quarrels with the respondents. The applicant was not behaving well with the respondent after their marriage. Applicant No. 1 was used to abuse the respondent No.1 as her marriage was solemnized against her will. The respondent has caused no physical or mental harassment of applicants. On the contrary, applicant No.1 is herself on her sweet will to leave the matrimonial house. Respondent No.1 has no income source, as the applicant alleged. He is having responsibility of his parents. On the contrary, the applicant knows agriculture work and earns Rs.300/- to 400/- daily. As such, she is not entitled to monetary relief as claimed. Hence prayed to reject the application.

5. Considering the rival contentions of both sides, the following points arose for my determination, and I have given my findings for the reasons discussed below.

<u>Sr. Nos.</u>	<u>Points.</u>	<u>Findings.</u>
1]	Whether the applicant No.1, prima-facie prove that she was subjected to Domestic Violence at the hands of respondents?	In Affirmative.
2]	Whether the applicants prove that they are entitled for the interim monetary relief as claimed?	Partly Affirmative.
3]	What order?	Application is partly allowed as per final order.

REASONS.

6. **Admitted facts as follows: -**

1. Relationship between parties.
2. Both parties live separately.

7. Heard both side at length. I have perused the application, say filed and record of the case.

AS TO POINT NO. 1 (Domestic violence):-

8. In support of her application, the applicant has filed her affidavit and reiterated the contents of her application on oath. After going through the allegations in the application supported by an affidavit, it reveals that respondents had made an illegal demand of Rs.50,000/- for purchasing two vehicles. Thus, respondents have caused domestic violence to the applicant No.1. According to Section 3 of the Act, Domestic Violence means any act commission or commission or conduct of the respondent shall amount to domestic violence in certain circumstances. It includes causing physical abuse and sexual abuse, verbal and emotional or economic abuse which are also explained in the clause. After going through the allegations in the application supported by the affidavit on oath, it prima facie reveals that the respondents have caused her domestic violence. At this prima facie stage, her affidavit itself is sufficient to infer that she is subjected to domestic violence at the hands of respondents. Respondents have neglected and refused applicants without any sufficient reason. Considering the facts and circumstances, there is no reason to disbelieve the applicant's version. Thus, I answered point No.1 in the affirmative.

AS TO POINT No. 2 (Entitlement Monetary)

9. Pertaining to this point, it is argued on behalf of the applicant that the respondent has agriculture land bearing Gut No. 224 and 224/3. He sells milk and gets Rs. 50,000/- to 60,000/-. He has not made any financial arrangements for her. Hence, he can pay applicants monthly maintenance of Rs.20,000/-. The applicant in support of her submission, has not produced any document to show the income supra.

In the absence of any supporting documents to the applicant's contentions about the respondents' income, it is hard to hold that the respondent is getting any income as alleged by the applicant. The respondent has filed a photo copy of Hindu Marriage Petition along with list of documents vide Exh.36. I have perused it. It appears that it is photo copy. Hence it cannot be considered. In present case the respondent has admitted that he is an agriculturist. The present scenario, a unskilled labour can get daily wages of Rs.300/- to 500/-. Considering the age and physical capacity of respondent No.1, he can earn an amount of Rs.9000/- to 15000/- per month. Therefore, considering this aspect, respondent No.1 has sufficient income to maintain his wife and daughter. On the contrary, No document on record will show that applicant No. 1 has income source. Hence, applicant No.1 has no source of income. Admittedly, applicant No.1 is at present residing in her maternal house and the relationship is not denied. Respondent No.1 has not made any economic arrangements for her livelihood. Considering the application, it will take time to decide it on merit. Hence, it is necessary to grant interim application. Thus, after considering the living standard of the applicants and respondent, the applicant No.1, is entitled to an amount of Rs.1000/- per month and applicant No.2 is entitled to an amount of Rs.500/- per month to applicant No.2, towards interim maintenance. Thus, I answered point Nos.2 in partly affirmative.

AS TO POINT NO:- 3

10. After considering findings as to points Nos.1 and 2, I am inclined to allow the application partly and in result, in answer to point No.3 I pass the following order-

ORDER

1. Application is partly allowed.
2. Respondent No.1 is directed to pay interim maintenances of Rs.1000/- (Rs. one Thousand only) to the applicant No 1 and of Rs. 500/-(Five hundred only) to applicant No.2 from the date of application till the decision of the proceeding.

3. Copy of this order is given to both parties free of cost vide Section 24 of the Domestic Violence Act.

(Dictated and pronounced in open court.)

Date : 12.11.2024.

Place:- Yeola.

(S. B. Rathod)

Judicial Magistrate, First Class,

Yeola, Dist. Nashik.