

Cr.M.A. No. 378/2022*Rekha Mahendra Ubale**Versus**Mahendra Mhasu Ubale***ORDER BELOW EXHIBIT 4**

Applicant have filed this application for interim maintenance as per section 125 of Code of Criminal Procedure, 1973. (Hereinafter referred as 'The Act')

2. It is contended in the application that, applicant no. 1 and respondent got married 29/04/2008. From the said marriage they have 2 children i.e. applicant no. 2 and 3. Further, it is contended that, after marriage for 2-3 months respondent kept her properly at her matrimonial house. Respondent has addiction of alcohol and that after consuming so he beats and abuses applicant. Respondent demanded money from applicant and that in september 2021 respondent drove applicants from his house.

3. Further it is contended that, applicant no. 1 has no source of income. On the contrary, respondent is having various businesses Hence, he earns 25 to 30 lakhs per annum. It is the responsibility of respondent no.1 to maintain applicants. Also, it will take time to decide the main application. Therefore, she prayed for interim maintenance of Rs. 1,00,000/- from respondent.

4. Respondent have filed his Say on main application at Exhibit 15. However, he failed to file say on the interim application. Therefore, application is proceeded without his say.

5. Following points arise for my determination and my finding along with reasons thereof:

Sr.No.	POINTS	FINDINGS
1.	Whether applicant prima facie proves that she is unable to maintain herself and applicant no. 2 and 3?	Yes.
2.	Whether applicant prima facie proves that, respondent has refused or neglected to maintain applicants?	Yes
3.	Whether applicant prima facie proves that, respondent have sufficient means	Yes
4.	Whether the applicants are entitled for interim maintenance?	Yes
5.	What order?	Partly Allowed.

REASONS

AS TO POINT NO. 1 to 4

6. Learned advocate for applicant reiterated the contentions of his application. Learned Advocate for respondent argued that, applicant has not refused or neglected to maintain applicants and that she is having source of income. Hence application be rejected.

7. Perused the present application. The averments in the application speaks about the act of respondent. Applicant has contended that, respondent and his relatives demanded money. Further, respondent and his relatives abused applicant. Respondent beaten applicant and abused her by giving unacceptable words and driven her out of her matrimonial house. Therefore, perusal of application *prima facie* discloses that respondent has neglected or refused to maintain the applicant.

8. Applicant have filed her asset and liability statement as per the directions of Hon'ble Supreme Court in the case of **Rajnish Vs Neha**

2021 SCC 324 at Exh. 10. From the statement it is seen that applicant has no source of income. At this stage of interim maintenance, it has to be accepted that applicant has no source of income and he is unable to maintain himself.

9. To prove the income of respondent, applicant has filed copy order of allotment of land by M.I.D.C. in favour of respondent, certified copy of 7/12 extract of Gat no. 24/7 and 24/6 of mouje Kundewadimajre in the name of respondent. On perusal of order of allotment of land by MIDC, it is seen that respondent is having a shop of sale of doors, windows and hardware namely 'Shree Sai Enterprises'. He is the proprietor of the said firm. Also in her asset and liability statement it is stated that, respondent earns upto Rs. 1 crore annually. Hence, it is *prima facie* proved that respondents have refused to maintain applicant who is unable to maintain himself despite having sufficient means.

10. Respondent has not yet filed his asset and liability. Therefore, conduct of the respondent have been recorded by this Court. Marriage and relation with applicants is admitted. It is moral responsibility of respondent to maintain the applicants. At the stage of interim application, it is necessary to consider the basic needs of the applicants in respect of food, clothing and other needs including medical and education expenses of the applicant no. 2 and 3. Therefore, it would be just and proper in order to meet ends of justice to direct respondent to pay monthly interim maintenance of Rs. 10,000/- in favour of applicants. In view of above discussion, applicant is entitled for interim maintenance and the cost of the interim proceeding is quantified at Rs.2,000/-. Hence, I answer point no. 1 to 4 in Affirmative. In answer to point no. 5, I pass the following order:

ORDER

1. Application is partly allowed.

2. Respondent is directed to pay monthly interim maintenance of Rs. 10,000/- (Rupees Ten Thousand Only) to applicants till 10th day of each month from the date of filing application till final decision of the main application.
3. Respondent No.1 shall pay Rs.2,000/- (Rupees One Thousand only) to applicant as cost of litigation.

Date: 22/12/2023

Place: Sinnar

Sd/-

K.S. Khandre

2nd Jt. J.M.F.C, Sinnar