

Cri. MA. 94/2018.

Bhagyashree Ganthade

Vs.

Shankar Ganthade + 7.

(CNR No. MHPU06-000263-2018)

Order Below Exh.5 (Ad-interim)

Applicant filed present application and seeking ad-interim prayer against respondent vide Section 23(2) of The Protection of Women From Domestic Violence Act, 2005 (The Act).

2) It is contended that, applicant and respondent No.1 got married on 25/05/2010. At the time of marriage the respondents told the applicant that, the respondent No.1 has completed his MCA degree and working for Tata Business Support. Believing on the statement, the applicant solemnized marriage. After marriage applicant realized that, the respondent No.1 is very aggressive. He has not completed his degree. He is totally addicted to the alcohol and used to come at home in drunken condition. The respondent No.1 physically abused the applicant. In the year-2016 applicant and respondent No.1 bought a new flat in Pune. Both have raised the finance to A.U. Finance. After purchasing the flat, the respondent No.1 forced the applicant to get money from her parental house. After purchasing a new flat,

the respondent No.1 run away to his hometown without informing the applicant. At present applicant is having meager salary amount of Rs.16,000/- (Rs. Sixteen Thousand only). She has to look after her daughter. She is paying E.M.I. amount of Rs.15,421/- (Rs. Fifteen Thousand Four Hundred Twenty One only). It is a duty of respondent No.1 to pay E.M.I. However, he failed to pay E.M.I. regularly. Accordingly, applicant prayed to direct respondent No.1 to pay amount of Rs.15,500/- (Rs. Fifteen Thousand Five Hundred only), maintenance amount of Rs.15,000/- (Rs. Fifteen Thousand only), compensation amount of Rs.20,00,000/- (Rs. Twenty Lakhs only).

3) Heard learned advocate for applicant and perused the record.

4) At the outset, it is significant to note that, the applicant has filed affidavit in support of contentions mentioned in the application. Applicant has also filed documents like marriage photographs, marriage invitation card, marriage registration chart, birth certificate of daughter of applicant, termination letter of respondent no. 1, bank statement of applicant, 7/12 extract of land situated at Ansarwada, Tal. Nilanga, Dist. Latur, sanction letter of A. U. Finance, statement of loan of said finance company.

5) On perusal of application, it is seen that applicant and respondent No.1 are in relation with each other due to the marriage solemnized on 24/05/2010. A marriage certificate chart prima facie shows that, said marriage between the applicant and respondent No.1 has been registered. The affidavit of applicant prima facie reveals that, she was subjected to the domestic violence by respondents. She was living in share household and in domestic relationship with respondent No.1. Hence, she falls within the definition of aggrieved person.

6) The Act empowers the Magistrate to grant ex-parte interim order if the Magistrate is satisfied that, the applicant is subjected with domestic violence. I have reproduced Section 23 for easy reference –

23. Power to grant interim and ex-parte orders.—

- (1) *In any proceeding before him under this Act, the Magistrate may pass such interim order as he deems just and proper.*
- (2) *If the Magistrate is satisfied that an application prima facie discloses that the respondent is committing, or has committed an act of domestic violence or that there is a likelihood that the respondent may commit an act of domestic violence, he may grant an ex-parte order on the basis of the affidavit in such form, as may be prescribed, of the aggrieved person under section 18, section 19, section 20, section 21 or, as the case may be, section 22 against the respondent.*

On perusal of application there are allegations prima facie shows that, applicant is subjected to the domestic violence and she is entitled to grant ex-parte order.

7) Now regarding prayers made by applicant it is necessary to go through the documents on record. The bank statements shows that applicant is working and paying E.M.I. amount of Rs.15,000/- (Rs. Fifteen Thousand only). She is receiving salary of Rs.16,000/- (Rs. Sixteen Thousand only). On perusal of sanction letter, it is seen that the loan has been disbursed to the Shankar Ganthade i.e. respondent No.1 and the name of applicant is showing as co-applicant. The E.M.I. amount of Rs.15,421/- (Rs. Fifteen Thousand Four Hundred Twenty One only). Hence considering the matter it is seen that applicant is earning amount of Rs.16,000/- (Rs. Sixteen Thousand only). She has to look after herself and her daughter. She has to pay E.M.I. amount of Rs.15,000/- (Rs. Fifteen Thousand only). The loan is taken by applicant and respondent No.1. Hence, it is duty of respondent No.1 to pay E.M.I. Hence, considering the matter I am of the view that it is just and proper to direct respondent No.1 to pay E.M.I. of Rs.15,421/- (Rs. Fifteen Thousand Four Hundred Twenty One only).

8) Regarding the prayer of maintenance and compensation, it is necessary to go through the say and document filed by respondents if any in order to decide quantum of maintenance. Hence, I do not incline to grant ex-parte order regarding compensation and maintenance. In view of above discussion, I pass following order.

ORDER

- 1) Application is partly allowed.
- 2) Respondent No.1 is directed to pay E.M.I. amount of Rs.15,421/- (Rs. Fifteen Thousand Four Hundred Twenty One only) to the respondent or to directly pay to the financial institution.
- 3) Respondent No.1 is directed to pay E.M.I. from month of February-2018 till further order.
- 4) Copy be sent to the respondent No.1 forthwith.
- 5) Free copy be made available.
- 6) Copy be sent to the Protection Officer.

Sd/-XXX

(Shri. O. A. Sane)

Pune :

Date : 29/01/2018

2nd Jt. Judicial Magistrate F. C.

Cantonment Court Pune-1.

C E R T I F I C A T E

I affirm that the contents of this P. D. F. file Order are same word for word as per original Order.

Name of the Court	:-	Shri. O. A. Sane, 2 nd Jt. Judicial Magistrate First Class, Cantonment Court, Pune.
Name of the Steno	:-	Shri. P. B. Jadhav, Stenographer (Grate-III).
Date of Order	:-	29/01/2018.
Order signed by presiding officer	:-	29/01/2018.
Order uploaded on	:-	30/01/2018.