

**ORDER PASSED BELOW EXH. 5**

This is an application under Section 23 of the Protection of Women from Domestic Violence Act, 2005.

2. As per the case of the applicant, her marriage was solemnized with respondent no. 1 on 09.03.2015 as per Hindu rituals. She has no child from the said wedlock. Respondents no.2 to 11 are relatives of respondent no.1. After the marriage, they all resided together. After few days of the marriage, the respondent no.1 started to abuse the applicant mentally and physically. He used to doubt her character stating that she has the love affair with one Mr. Mosin. The respondent no.1 was used to force the applicant to consume some tablets daily, due to which she started a stomach pain. She didn't know the uses of the said tablets. Thereafter when she along with the respondent no.1 were residing with her mother for few days, the respondent no.1 created a drama and told her mother that the applicant has cheated him and has affair with Mr. Mosin. He suddenly started yelling and crying loudly but again calmed down and went to the work. Due to this behavior of the respondent no.1 the applicant's mother took him to the doctor. Further, the respondent no. 2 to 11 also used to abuse her in filthy language by doubting on her character. It is further stated that the respondent no.1 has married again to one Supriya Vishal Sathe@ Supriya Shivaji Gaikwad and they have one daughter from the said illegal wedlock. Finally on 28.04.2015, the applicant was driven out

of the house by the respondents no.1 to 8 by dragging her stridhan. Thereafter on 18.08.2015 the respondent no.1 had filed HMP no. 72/2015 for divorce in which the applicant moved an application for maintenance u/s 24 of Hindu Marriage Act, by which the Court granted the interim maintenance for Rs. 3,000/-p.m. and Rs.4,000/- for the application cost but the respondent did not pay the same and later on the said case got dismissed on default of the respondent.

3. The applicant has further submitted that the respondent no.1 is an Electronic Engineer and runs a business by which he earns Rs. 15,00,000/- per month. Nobody is dependent on the respondent no.1. On the other hand, the applicant has completed her education till HSC only and has no source of income. She is totally dependent on her mother and her father had died some years ago. Hence, she has prayed for interim maintenance of Rs.50,000/-.

4. Respondent no.1 has resisted the application by filing his say below Exh. No. 34. He has not disputed the fact of marriage. It is submitted that, the applicant herself started to harass the respondent no.1 mentally. She used to talk on the phone with someone all the day. Since the beginning she has preferred to keep distance from the respondent no.1 by giving many excuses. She used to consume some tablets due to which she suffered a stomach pain many times. Thereafter the respondent no.1 came to know that the applicant is talking to one Mr. Mosin whole day. On being asked to her mother about the same, he came to know that the applicant had the love affair with Mr. Mosin even before the marriage to which her mother and her relatives not agreed and hence, they solemnized her marriage with the respondent no.1. After hearing this, the respondent no.1 felt cheated by the applicant and her mother and he demanded for divorce. But the applicant's mother

assured for the well being of their marriage. However, the applicant was not ready to let go off her affair with Mosin and she always wanted to marry him due to which she always kept a distance with respondent no.1. It is further submitted that though he is an Engineer, his family is dependent on him and he has incurred many loans in Corona Period. On the other hand the applicant is educated and her mother is earning and doing a job in Police department. Hence, he has prayed to reject the application.

5. Heard Learned Advocate on behalf of the applicant and the respondents. The marriage is not disputed. The applicant is residing with her mother is also not denied. The fact that the respondent no.1 is An Electrical Engineer is also admitted by the respondent. Thereafter, it is prima facie seen that the respondent no.1 has not made any provision to maintain the applicant. Both the applicant and respondent no.1 have made allegations of extra marital affairs against each other which is yet to prove. Though the applicant has not filed any documentary evidence regarding the income of the respondent no. 1, as per his say and income affidavit, he earns Rs. 1,50,000/- per year. That means he has source of income and being a well bodied person, can earn more income also. On the other hand, the respondent no.1 has also not brought on record any evidence till now, showing the income of the applicant. Hence, not making provision for her basic needs is prima facie economic abuse at the hands of the respondent no.1. Further, it prima facie appears from record, that he has not complied with the order of Respected Civil Court of Senior Division, Waduj, granting interim maintenance of Rs. 3,000/- per month to the applicant. Therefore, being a legally wedded wife of the respondent no.1, she is also entitled to interim maintenance in this case. Hence, I pass the following order :-

ORDER

1. The application Exh. No. 5 is hereby partly allowed.
2. The respondent no. 1 is hereby directed to pay interim Seven maintenance of Rs. 7,000/- (Rupees Seven Thousand Only) per month to the applicant from the date of application till the final disposal of this matter.
3. Parties to lead evidence.

Date : 23/12/2024

(P. S. Apte)
Judicial Magistrate First Class,
Court No.2, Khadki, Pune.