

**ORDER PASSED BELOW EXH. NO. 05 IN CRI. M. A No. 951/2018.**

Naina Vs. Vijaysingh.

The applicant No. 1 has filed an application for grant of interim Maintenance of Rs. 20,000/- for per month for herself and for applicant No. 2 son Vivan under section 125 of the Code of Criminal Procedure (herein after referred as 'the Code').

2. It is contended by applicant No. 1 that her marriage with the non-applicant solemnized on 13.05.2015 as per their rights and custom at Akola. After her marriage, she was subject to mental and physical cruelty on account of demand of dowry from her parents. Initially her parents has fulfilled his demand with the hope that his behavior will change. But, in spite of that and greedy nature, his behavior remain unchanged. She has tolerated all the ill-treatment with the hope that the image of her husband will not defame in the society. But, the cruelty remains continue and was far to her limit. On 03.10.2017 they blessed with applicant No. 2 Vivan. After the birth of her son she was hoping that the behavior of the non-applicant will change. But, again his demand remains continue. On 21.02.2018, he has called her mother. In front of her, he has abused and beaten applicant No. 1. since then, she is residing on the mercy of her parent at her parents house. She has no source of income. On the contrary, her husband is serving in Novel Convent School in administrative department as clerk and getting salary of Rs. 25,000/- per month. His father having the property which has been rented and fetched income of Rs. 30,000/- per month. He is having family business in the name of M/s. Vijendra Transport and fetched the income of Rs. 50,000/- per month. No one depends upon him apart from applicants.

3. Per contra the non-applicant appeared and filed his reply (Exh. No. 7). He denied all the allegations made against him. According to him, initially he was working as a photographer and getting the salary of Rs. 8,000/- per month. After the marriage, she came at Akola for co-habitation with him. After 8 days of marriage, she used to quarreled with him and his parents without any reason. She used to give an excuses that she is ill and on that count she used to take a rest. She has raised suspicious on his character. His financial condition was not good on that count she used tount him. Thereafter, he was compelled to stay at Pune on the count that her father will buy a flat for them. Similarly, her father will start a business for them. At that time, he was working in the Novel School in the contract basis and getting salary of Rs. 6,200/- per month. She was not happy in the joint family. She left the matrimonial house without any reason. On 26.05.2015, she called her parents at Akola. They have made false commitment to start a business for him. Therefore, she came at Pune along with the non-applicant. After 2 months, they have started a restaurant for him. But, he was compelled to do a delivery boy in that restaurant. On 17.02.2016, he requested to give some money to applicant No. 01. On that count her brother and father have beaten him. When he tried to approach Police Station. On 19.02.2016, they have given medical treatment. On 08.05.2016, he started doing the same work. He has requested them to visit at his place at Akola. On that count they have quarreled and beaten him. He has approached to Police Station. With the help of police he was sent at his native place at Akola. Thereafter, he started working in a school. She has initiated divorce petition No. 482/2018 at Pune. She has mentioned in that petition that her husband is earning Rs. 7,000/- per month. But, in the present case she has mentioned that

her husband is earning Rs. 25,000/- per month, which is contradictory to each other. Her father has purchased truck on finance in the year 2006. But, they could not repay the loan. Therefore, the finance company has sold that truck in an auction. On the contrary, applicant No. 1 is earning Rs. 40,000/- per month. Hence, prayed to reject the application.

4. In view of pleading of both parties following points arises for my determination and I have recorded my findings with reasons thereon.

<b>S.No.</b>	<b><u>Points</u></b>	<b><u>Findings</u></b>
1.	Whether applicants are entitled for interim maintenance ?, If yes what could be quantum of maintenance ?	Partly allowed.
2.	What Order?	As per Final Order.

### **REASONS FOR THE FINDINGS**

#### **POINT NO. 1.**

5. As per the direction of Hon'ble Apex Court in Rajnesh Vs. Neha 720 arising SLC (Cri.) 9503/2018 decided on 04/11/2020. Both parties were directed to file their affidavits of assets and liabilities. Accordingly, the applicant No. 1 filed her affidavit (Exh. No. 16). But, the non applicant has fail to file his affidavit.

6. The allegations regarding mental and physical cruelty on the account of demand of dowry. After the marriage, in the year 2015 she has tolerated all the ill-treatment with the hope that one or another

day the behavior of her husband will change. Her father had made an effort to settle their married life and started business of restaurant at Pune. But, he was not happy. Though, he has made a counter allegations about the ill-treatment at the hands of applicant No. 1 family member. But, at no point of time, he has approached to Police Station to report the incident. Therefore, the allegations made by the non-applicant appeared to be imaginary. On the contrary, the allegations made by applicant No. 1 prima-facie appeared to be just and proper that she was subject to cruelty at the hands of non-applicant. Therefore, she left the matrimonial house and started residing with her parent. There is nothing on record that her husband has provided any financial assistance for the maintenance of the applicants. Similarly, there is nothing on record that applicant No. 1 is earning No. 40,000/- per month as claimed by the non-applicant.

7. On the contrary, applicant No. 1 assets and liabilities (Exh. No. 16) discloses that her monthly expenses is Rs. 25,000/- including food, medical expenses, transportation, electricity, gas bill and miscellaneous expenses. She has borrowed amount the Rs. 50,000/- from her brother, friends and relative for repay the amount of loan Rs. 50,000/- per month. The non-applicant has having bungalow at Akola. His source of income is his salary, transport business, commercial rent.

8. Before considering the standard of living of her husband, the amount of Rs. 5,000/- per month to applicant No. 1 and Rs. 5,000/- to applicant No. 2 till he attend the age of majority. The amount awarded be fulfill day to day needs and educational expenses of applicant No. 2. The amount will not caused prejudice to the non applicant. Hence, I

proceed to pass the following order :

**:: O R D E R ::**

- 1] The application is partly allowed.
- 2] The non applicant is directed to Rs. 5,000/- per month from 04.10.2018 to applicant No. 1.
- 3] The non applicant is directed to Rs. 5,000/- per month from 04.10.2018 to applicant No. 2 till he attend the age of majority.

Sd/-xxx

( N.R. Gajbhiye )

Jt. Judicial Magistrate First Class,  
Pimpri, Pune.

Dated : 30/05/2023

**CERTIFICATE**

I affirm that the contents of this P.D.F. file Order/ Judgment are the same, word to word, as per the original Order.

Name of the Stenographer	:- P B. Jadhav
Name of the Court	:- Jt. C.J.J.D. and J.M.F.C. Pune.
Order / Judgment Date	:- 30.05.2023
Order / Judgment signed by the Presiding Officer on	:- 30.05.2023
Order uploaded on	:- 30.05.2023