

<u>MHPU250002642024</u> 	<u>PWDVA Appln./07/2024</u> <u>Rekha Bhushan Bhise</u> <u>Vs</u> <u>Bhushan Laxman Bhise</u>
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ORDER BELOW EXH 5 IN PWDVA 07/2024

The present application has been filed by the applicant under Section 23 of the Protection of Women from Domestic Violence Act of 2005 (hereinafter 'the Act' for short), seeking interim relief against respondent no. 1 ("the respondent"). The respondent contested the present application by filing say at Exh. 18A.

2. Read the application and say. Heard Ld. Advocates for both parties.

3. Ld. Advocate for the applicant urged that applicant and the respondent solemnized their marriage on 11/05/2004. Applicant has suffered domestic violence at the hands of the respondent. The respondent physically, mentally, emotionally and financially harassed her continuously without any reason. Thereafter, he deserted her and there child Shruti and refused to maintain them. Since 27/06/2023, applicant is residing along with her parents. She has no means to maintain herself and Shruti.

4. It is further submitted that despite having sufficient income, the respondent has not made any provision for their maintenance. Therefore, she prayed for monthly interim maintenance of Rs. 12,000/- (Rupees Twelve Thousand Only).

5. On the contrary, the respondent has denied all the adverse contentions regarding Domestic Violence. Instead, he has contented that, the applicant herself failed to maintain matrimonial relations. She has sufficient income to maintain herself. Whereas, he has several financial

liabilities to look after and is not earning sufficient income to maintain the applicant. Thus, prayed that, the application be rejected.

6. In support of their contentions, parties have filed their affidavit of assets and liabilities at Exh 13 and Exh 21 respectively.

7. Perused the record. Considered the submissions for both parties. Following are the points that have arisen for my determination along with the findings thereon based on the reasons as under:

Sr. No	Points for determination	Findings
1.	Whether the applicant prima facie is an aggrieved person ?	Yes.
2.	Whether the applicant is entitled to interim maintenance? If yes, how much?	Yes. Rs. 4000/- per month.
3.	What Order ?	Application is partly allowed in terms of final order.

REASONS

As to point No. 1

8. Section 23 of the Act provides for grant of interim orders to the aggrieved person. It is clear from the section itself that while granting interim relief, the Court is not supposed to go deep into the merits of the case or the evidence which may be brought at the time of trial as it is certainly an interlocutory adjudication based on *prima facie* findings of domestic violence. Therefore, it is not expected of an aggrieved person to bring the proof of pleaded allegations strictly at this stage.

9. From perusal of record it appears that, marriage between applicant and respondent solemnised on 11/05/2004 as per customary rites and rituals and thereafter the applicant cohabited with the respondent upto their separation. The said fact is admitted by the respondent. Thus, the fact that there existed a domestic relationship

between the applicant and the respondent and they shared household is prima facie established.

10. Applicant has filed her affidavit at Exh 6, wherein various incidents of domestic violence have been stated. As per the averments, she was assaulted by the respondents on various occasions. Also, she was mentally abused and physically harmed. It is also stated that she never received any care or support from the respondent during her cohabitation with him.

11. On the other hand, the respondent has denied the allegations. However, merely because the allegations are denied, it would not make the averments of the application inconsiderable. The veracity of the allegations of both the parties will be adjudicated through evidence. At the present stage, the averments in the application cannot be disregarded due to denial. The contentions on record indicate that some incidents having undertones of domestic violence have occurred between the parties which require ascertainment.

12. Further the applicant has averred that the respondent has not maintained her and Shruti since they left the matrimonial home. The respondent has not denied that the applicant is residing separately. There is nothing on record to show that the respondent has been providing maintenance to the applicant since 27/06/2023. The failure to provide maintenance to the applicant, prima facie amounts to economic abuse, which is a form of domestic violence.

13. Considering the material placed on record and the averments in the application and the affidavit, it prima facie appears that the applicant has suffered physical, emotional, mental and economic abuse

by the respondent. Since, the applicant was in a domestic relationship with the respondent and has prima facie been subjected to domestic violence by him, she is an aggrieved person as per the definition laid down under Section 2(a) of the Act. Therefore, I answer point No. 1 *in the affirmative*.

As to point No. 2

14. The applicant has asserted in her application that respondent is earning huge income from his money lending, sand and agricultural business. That she has no source of income. On the contrary, the respondent contented that, applicant has sufficient income.

15. Though, the parties have asserted about the income of other, there is not an iota on evidence to support their contentions. But, since the applicant is an aggrieved person and admittedly the respondent has not made any provision for the maintenance of applicant, it appears that, some amount be granted to her as maintenance. Therefore, admitted pleadings and affirmations in the affidavits need to be relied upon at this stage to decide the quantum of interim maintenance.

16. In her affidavit at Exh. 13 she has specified her income to be nil. Notably, there is no material to show that applicant is earning any monthly remuneration. On the other hand, the respondent in his affidavit at Exh.21 has mentioned his monthly income as Rs. 50,000/-. He has also stated that he earns about Rs 50,000/- per year from the agricultural lands. Therefore, it will be just and proper that, it be believed at this stage, that the respondent is earning the said income only. It is imperative to note that, the respondent has several financial liabilities including the medical treatment of his mother as appears from the documents filed on record. Thus, the said fact needs to be taken into

consideration for deciding the quantum of interim maintenance. But, it is also necessary to note that the bills placed on record are of recent dates and are general medical expenses. Merely, by relying upon them respondent cannot absolve himself from his legal and moral responsibility of maintaining his wife and child.

17. Thus, considering, the expenses of the parties, their standard of living, legal responsibility, the necessities, granting monthly interim maintenance of Rs. 4,000/- to the applicant appears to be justified. Therefore, point no. 2 is answered *accordingly*.

As to point No. 3

18. In view of the foregoing findings, applicant prima facie appears to be an aggrieved person. She is entitled to Rs. 4,000/- per month towards their maintenance. Also, Rs. 2000/- as costs of the application appears necessary to be granted to granted to her. Since, the applicant has been residing away from her matrimonial house, applicants deserves to obtain maintenance from the date of filing of the application. Therefore, in answer to point 3, the following Order is passed;

ORDER

1. Application is partly allowed.
2. Respondent no. 1 shall pay to the applicant Rs. 4,000/- per month as interim maintenance from the date of filing of the application, till disposal of the main application or further orders of the Court.
3. Respondent no. 1 shall pay to the applicant Rs. 2,000/- as cost of the application.
4. Applicant is directed to lead evidence within two months from the

date of this Order or this order shall be liable to be vacated.

5. Copy of this Order be provided to all the concerned persons as per Section 24 of Protection of Women from Domestic Violence Act.

Place : Junnar
Date : 01/08/2026

Sd/-
(S. S. Jain)
Judicial Magistrate First Class,
Junnar,