



ORDER BELOW EXH 5 IN PWDVA. 21/2023

The present application has been filed by the applicants under Section 23 of the Protection of Women from Domestic Violence Act of 2005 (hereinafter 'the Act' for short), seeking interim relief against Respondent.

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

3. Ld. Advocate for the applicants urged that applicant no. 1 and respondent no.1 solemnized their marriage on 04/03/2022. Applicant no. 1 has suffered domestic violence at the hands of respondents. She has suffered domestic violence at the hands of respondents. The respondent no. 1 physically, mentally, emotionally and financially harassed the applicant continuously without any reason. He has deserted her and thereafter refused to maintain her. The applicant is forced to stay with her parents. Since 17/10/2022, she is residing at her maternal home as she does not have any means to maintain herself.

4. It is further submitted that despite having sufficient income, respondent no. 1 has not made any provision for maintenance for her. Also, that respondent no.1 is earning a monthly income of about Rs 30,000 to 35,000/- and agricultural income of about 4 to 5 lacs per annum. Therefore, the applicant prayed for monthly interim maintenance of Rs.20,000/- (Rupees Twenty Thousand Only) and Rs.3,000/- (Rupees Three Thousand Only/-) per month as rental expenses.

5. Respondent filed his reply at Exh 16 and has denied all the adverse contentions regarding domestic violence. Instead, he has made allegations of adultery against the applicant. It is also contended that the applicant has sufficient income and can maintain herself. On the contrary, the respondent does not have any fixed source of income as irregularly earns Rs. 5,000-6,000/- per month as per the work.

6. In support of their contentions, parties have filed their affidavit of assets and liabilities at Exh 19 and Exh 25 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 is prima facie an aggrieved person ?	Yes.
2.	Whether the applicant is entitled to interim maintenance? If yes, how much?	Yes. Rs. 1000/- per month
3	Whether the applicant is entitled to interim monthly rent? If yes, how much?	Yes. Rs. 500/- per month
4.	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 the parties as per customary rites and rituals was solemnised on 04/03/2022 and thereafter the applicant cohabited with the respondent no.1 upto their separation. The said fact is admitted by the respondent no.1. Thus, the fact that there existed a domestic relationship between the applicant and respondent and they shared household is *prima facie* established.

10. Applicant has filed her affidavit along with the main application, wherein various incidents of domestic violence have been stated. Similarly, the DIR also states several incidents of Domestic Violence upon the applicant committed by the respondents. As per the averments, the applicant was assaulted by the respondent on various occasions. She was mentally abused and physically harmed. It is also stated that she never received any care or support from respondent during her cohabitation with him.

11. On the other hand, the respondent no. 1 has denied the allegations and made counter allegations against the applicant. He has contended that the application was in an adulterous relationship with her former lover. That, he never committed any act of domestic violence upon the applicant. However, merely because the allegations are denied and counter allegations are made, it would not make the averments of the application inconsiderable. The veracity of the allegations of both the parties will be adjudicated through evidence. Moreover, at the present stage, the averments in the application cannot be disregarded due to the

existence of counter allegations. The contentions on record indicate that some incidents having undertones of domestic violence have occurred between the parties which require ascertainment.

12. The Ld. Advocate for the respondent argued that the applicant is disentitled to claim maintenance due to adultery. In support he relied upon the various video clips and screenshots of whatsapp chats brought on record. However, the truthfulness of the clips and the screenshots shall be decided during trial. It requires to be proved as per the procedure laid down under Indian Evidence Act. Its veracity and Allegations of adultery cannot be proved at this stage. It is a continuous act and requires strong admissible evidence and therefore can be decided only on evidence led by both parties. Hence, such contentions are not valid at this stage to deny the claim of the applicant. The primary objective of the Act is to provide swift and effective relief to victims of domestic violence, including financial support, to prevent destitution. Denying interim maintenance based on unproven allegations would defeat this purpose.

13. Further, the applicant has averred that the respondent no. 1 has not maintained her since their separation. The respondent no. 1 has not denied that the applicant is residing separately. There is nothing on record to show that the respondent no. 1 has been providing maintenance to the applicant since 17/10/2022. The failure to provide maintenance to the applicant, prima facie amounts to economic abuse, which is a form of domestic violence.

14. 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 the

respondent, 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

15. The applicant has asserted in her application and affidavit that respondent is earning income of Rs 30,000/-35,000/- from his job and about Rs. 4,00,000/- to 5,00,000/- per year from his agriculture. The applicant has also asserted that she has no source of income and respondent has neglected to maintain her despite having sufficient income. She has prayed for Rs. 20,000/- per month as interim maintenance.

16. Adverting to the contents of the affidavit of assets and liabilities of both parties at Exh 19 and 25 respectively, it can be seen that the applicant has specified her own income to be Nil and that of respondent no.1 to be Rs. 30,000/-35,000/- from his job and about Rs. 4,00,000/- to 5,00,000/- per year from his agriculture. Whereas, respondent no.1 has specified his monthly income in the affidavit as 6,000/- per month and has shown monthly expense of the dependents as Rs 10,000/-. Affirmations in the affidavits need to be relied upon at this stage to decide the interim maintenance.

17. Both the parties have made contentions about the income of each other but there is absolutely no iota of evidence placed on record to support their contentions. Therefore, Court will have to rely on the material specified in the affidavits only.

18. Other than the contentions, there is no material proof to show the income of either parties. Pertinently, the respondent has also not placed any material on record to show that he has been providing maintenance to applicants.

19. On the basis of the above discussion, this court at this stage holds that applicant has no source of income and is unable to maintain herself. But, the applicant has failed to file any document on record to show the income of the respondent no.1. Therefore, the income admitted by the respondent in his affidavit at Exh. 25 needs to be considered for the purpose of deciding the present application. Thus, at this stage this Court believes that the respondent is earning Rs. 6,000/- per month. The respondent has shown Rs.10,000/- as expenses of the dependents. But has not shown who are the dependents and for what purpose the said expenses are incurred. Moreover, the respondent no.1 cannot be absolved from his legal and moral responsibility of maintaining his wife. In such circumstances, it is necessary that applicant be granted some amount as maintenance.

20. In view of the source available to respondent no. his dependents of the standard of life of the parties, and the necessities of the applicants, granting monthly interim maintenance of Rs. 1,000/- to the applicant appears to be justified. Therefore I answer point no. 2 as party *affirmative*.

As to Point no.3

21. Applicant has also sought interim orders under Section 19 of the Act for her residence. She has prayed that either respondent arrange for her accommodation or provide monthly rent amount of Rs.3,000/-. It has come on record that the applicant is residing with her parents. Considering the fact that the applicant has been subjected to domestic violence by the respondents, it will not be proper to pass any directions for shared residence or applicant's residence in her matrimonial house along with the respondents. It has come on record that the applicant is residing with her parents. She cannot be left at the mercy of her parents. Considering the facts and circumstances, it will be just to grant an interim monthly rent

expense of Rs.500/- to the applicant. Hence, I answer this point in partly affirmative.

As to point No. 4

22. In view of the foregoing findings, applicant no. 1 prima facie appears to be an aggrieved person and the applicant is entitled to Rs. 1,000/- per month towards her maintenance and Rs.500/- as interim monthly rent expense. Also, Rs. 1,500/- as costs of the application appears necessary to be granted to the applicant. Besides, the applicant has been residing away from her matrimonial house, she deserves to obtain maintenance from the date of filing of the application. Therefore, in answer to point 4, I pass the following order.

ORDER

1. The application is partly allowed.
2. Respondent no.1 shall pay to the applicant Rs. 1,000/- per month as interim maintenance and Rs.500/- towards interim monthly rent expense 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 also pay Rs. 1,500/- to the applicant as cost of the application.
4. Applicant is directed to lead evidence within one month 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.

sd/-

Place : Junnar
Date :03/11/2025

(S.S. Jain)
Judicial Magistrate First Class,
Junnar