

MHPU250017992023 	PWDVA Appln./38/2023 Priyanka Ganesh Shingote Vs. Ganesh Vasant Shingote
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ORDER BELOW EXH 5 IN PWDVA 38/2023

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. 21.

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 15/05/2014. 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, child Aarush was born out of the said wedlock. But, the respondent continued to harass the applicant. Thereafter, he deserted her and refused to maintain the applicant and Aarush. Since 2018, applicant is residing at maternal home. Applicant does not have any means to maintain herself and Aarush.

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. 20,000/- (Rupees Twenty Thousand Only) and Rs. 8,000/- (Rupees Eight Thousand Only) per month for house rent. Also, she prayed for Rs. 5,000/- (Five Thousand) as cost of the present application.

5. On the contrary, the respondent has denied all the adverse contentions regarding Domestic Violence. Instead, he has contented that, the applicant herself deserted the respondent and left her matrimonial house with their child, without any just cause. It is further submitted that, the applicant has sufficient income to maintain herself. Thus, prayed that, the application be rejected.

6. In support of their contentions, parties have filed their affidavit of assets and liabilities at Exh 17 and Exh 22 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. 1,500/- per month.
3	Whether the applicant is entitled to interim house rent/residence Order? If yes, how much?	No.
4.	Whether the applicant is entitled to costs as prayed?	Yes. Rs. 1,500/-
5	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 was solemnised on 15/05/2014 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 that 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 respondent 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. Moreover, 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 their child Aarush 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 07/11/2018. 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 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

14. For deciding entitlement of maintenance, it will be relevant to go through the pleadings and affidavit of the parties. Applicant has asserted that respondent is earning income of about 8 to 10 lacs per year from his agricultural land. Also, that, he is earning Rs. 20,000/- to 25,000/- per month from his job as security guard. She also asserted that she has no source of income and the respondent has neglected to maintain her and Aarush despite having sufficient income. On the other hand, the respondent in his affidavit at Exh. 22 has averred that, applicant has income of Rs. 2,00,000/- per year from her agricultural land and is earning Rs. 45,000/- per month from her job at One World Logistics. Whereas, he has specified his income as Rs. 12,520/- per month which he is earning occasionally by working as a security guard.

15. From perusal of the contents of the affidavit of assets and liabilities of both parties at Exh. 17 and Exh. 22 respectively, it can be seen that both the parties have stated income alleged to be received by the other party. However, there is no iota of evidence to support the said contentions. But, since the applicant is an aggrieved person and

admittedly the respondent has not made any provision for her maintenance, it appears that, some amount must be granted. Besides, even if child is not a party, relationship with him and his custody with the applicant is not denied. It is the moral responsibility of both the parents to contribute for his growth and development. Therefore, the respondent cannot evade his liability of maintaining his wife and child. Accordingly, admitted pleadings and affirmations in the affidavits need to be relied upon at this stage to decide the quantum of interim maintenance.

16. It can be seen from the bank statement of the applicant placed on record, she was earning monthly remuneration from One World Logistics Pvt. Ltd, upto 08/06/2022 i.e. before filing of the present case. There is no material to show that, she has been earning remuneration from the said company since filing of the present case. But, the applicant in her affidavit at Exh. 17 has admitted to be receiving Rs. 3,000/- per month. This indicates that the applicant has some source of income. However, there is no material to show that she is earning agricultural income as contended by the respondent. Simply because, applicant is earning some income, cannot absolve the respondent from paying maintenance.

17. The respondent has admitted to be earning Rs. 12,520/- per month. In absence of any document to the contrary, this Court believes that, the respondent is earning the said income only. Applicant is entitled to receive maintenance accordingly.

18. Considering, the income and expenses of the parties, their standard of living and legal responsibility, granting monthly interim maintenance of Rs. 1,500/- to the applicant appear to be justified. Therefore, point no. 2 is answered *accordingly*.

As to point nos. 3 and 4.

19. The applicant has prayed for residence orders under section 19 of the Act, in terms of directions to the respondent to provide monthly rental amount of Rs. 8,000/-

20. It has come on record that the applicant is residing with her parents. There is nothing to show that, the applicant is paying Rs. 8,000/- per month as house rent. Other than the affidavit there is absolutely no document or any rent agreement on record to support the claim of applicant. Thus, it cannot be held that, applicant is incurring monthly expense of Rs. 8,000/- as house rent. Besides, considering the conduct of the respondent granting Rs. 1,500/- as costs of the application appears necessary.

21. Thus, considering the above discussion, point no. 3 is answered in *the negative* and point no. 4 is answered *accordingly*.

As to point no. 5

22. In view of the foregoing findings, applicant prima facie appears to be an aggrieved person. Applicant is entitled to Rs. 1,500/- per month towards maintenance. Since, she has been residing away from her matrimonial house, applicant deserves to obtain maintenance from the date of filing of the application. Therefore, in answer to point 5, the following order is passed;

ORDER

1. Application is partly allowed.
2. Respondent no. 1 shall pay to the applicant Rs. 1,500/- 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. 1,500/- 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 : 19/05/2026

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