

Order passed below Exh. No. 6 in M.A. No. 199/2022.

Mrs. Fatima Anwar Khan
Vs.
Mr. Anwar Rafiq Khan

1. 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 23.10.2007. She begotten two daughters namely Simran and Alisha from the said wedlock. Respondents no.3 to 6 are relatives of respondent no.1. All the respondents have abused the applicant in filthy language and tortured her physically by beating her on the ground of not having a son. They have driven her out for the same. The respondents were used to make unlawful demand of Rs. 50,00,000/- and a four-wheeler car from the applicant's parents. But on non-fulfillment of such demand they used to harass her mentally and physically. The respondent no.1 has solemnized second marriage with respondent no.2 to which other respondents no. 3 to 6 have consented. The respondent no.2 has a daughter from the said wedlock and now she is again expecting a second child from respondent no.1. Further it is contended that all the respondents are of criminal nature and the applicant has threat to her life from them. The respondent no.1 was used to force the applicant for third child in the grid of having son without concerning her health. Further it is stated that, the respondent

no.1 does a job at Soudi Arabia from which he earns Rs. 1,00,000/- per month and nobody is dependent on him except the applicant and her daughters. On the other hand, applicant has no source of income and the respondent no.1 has not made any provision for her. Hence, this application.

3. Respondent no.1 has resisted the application by filing his say below Exh. No. 11. He has not disputed the fact of marriage and the birth of the daughters. It is submitted that, the applicant herself has left her matrimonial house along with her daughters. She always wanted to stay with her parents for which she used to force the respondent no.1 all the time. He never abused the applicant nor made any unlawful demand from her parents. But the applicant never wanted to stay together with the parents of respondent no.1. Therefore, she herself has left the house. The respondent no.1 tried to bring her back but she did not return. He further submits that he does a job in a Bakery from which he earns Rs.200/- per day i.e. Rs. 6,000/- per month. His parents are dependent on him. While the applicant runs a tailoring business and a beauty parlor. Hence, he has prayed to dismiss this application.

4. Heard Learned Advocate on behalf of the applicant and the respondent no.1. The marriage is not disputed. The applicant along with her daughters is residing with her parents is also not denied. Though the applicant has not filed any documentary evidence regarding the income of the respondent no.

1 except income affidavit, as per his say, he earns Rs. 6,000/- per month. 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. Further, it is his legal responsibility to look after her wife and daughters who are still minors. Hence, not making provision for their basic needs is prima facie economic abuse at the hands of the respondent no.1. Therefore, being a legally wedded wife, she is entitled to interim maintenance for herself and for her daughters. Hence, I pass the following order :-

:: ORDER ::

1. The application Exh. No. 6 is hereby partly allowed.
2. The respondent no. 1 is hereby directed to pay interim maintenance of Rs. 5,000/- (Rupees Three Thousand Only) per month to the applicant herself and for her daughters from the date of application till the final disposal of this matter.
3. Parties to lead evidence.

Karjat
Date : 08/05/2023.

(Smt. P.S.Apte)
Jt. Civil Judge, J. D. &
J.M.F.C., Karjat.