



Order Below Exh.05 in Crim. M.A. No.151/2022

01) Through this application, applicants are praying for interim monitory relief and interim protection order under section 23 sub-clause 2 of the Protection of Women from Domestic Violence Act, 2005 (hereinafter referred as 'DV Act' in short).

02) The encapsulated facts of the applicant's case are that, applicant no.1 and respondent no.1 are husband and wife. Their marriage was solemnized on 20/04/2020 as per Islamic rites and rituals at Mhasala in presence of their respective family members, friends, relatives and acquaintance of both (hereinafter referred as 'the said marriage' for the sake of brevity). Out of the said wedlock, they are having 01 child i.e. applicant no.2. The custody of the said child is with applicant no.1. Other respondents are the in-laws of applicants.

03) It is the contention of applicants that, after the said marriage, applicant no.1 started cohabiting with respondents at her matrimonial house at Borlipanchatan, Shrivardhan. After the said marriage, respondents subjected applicant no.1 to verbal, mental, physical, economical and emotional abuses. During cohabitation, applicant no.1 also came to know that, respondent no.1 is having an affair with a lady and in pursuance of the said affair, respondent no.1 had performed marriage with said lady.

04) It is the further contention of applicants that, since 27/09/2022, applicants are residing separately. Respondent no.1 is neglecting and avoiding to maintain applicants. Respondent no.1 did not provided any kind of maintenance to applicants. Resultantly, through this application, applicants are praying for following reliefs:

- a) **As to protection order** i.e. to restrain respondents from committing any violence against applicants.
- b) **As to interim maintenance** i.e. to direct respondent no.1 to pay monthly monitory relief of Rs.25,000/- to applicants.

05) Applicants contented that, respondent no.1 is working as a Tourism agent. Out of the said employment, respondent no.1 is earning around Rs.1,50,000/- to Rs.2,00,000/- per month. Applicants lastly submitted that, apart from applicants, no other person is dependent upon respondent no.1. Other respondents are self dependents.

06) After service of notice, respondent no.1 appeared. However, respondent no.1 failed to file Say/reply. On 12/08/2025, vide order below Exh.1, present case is proceeded without Say/reply of respondent no.1. At the time of argument below present application, respondent no.1 appeared in the Court. At the time of argument, he filed his written submission below Exh.32. By way of said submission, he denied the claim of applicants in toto. He further submitted that, he is unemployed. He is having responsibility of other respondents. Due to unemployment, he is not in position to pay any maintenance.

07) In support their claim applicants has filed following documents :-

- a) Domestic incident report (Exh.4/1)
- b) Adhar Card of applicant no.1 (Exh.4/2)
- c) PAN Card of applicant no.1 (Exh.4/3)
- d) Birth certificate of applicant no.1 (Exh.4/4)
- e) Marriage photo (Exh.4/5)
- f) Notice issued by applicants (Exh. 4/6)
- g) FIR bearing no.103/2022 (Exh.4/7)
- h) Complaint application dated 22/11/2022 filed by applicant no.1 (Exh.4/8 & Exh.31/3)
- i) Complaint application dated 01/03/2023 filed by applicant no.1 (Exh.16/1 & Exh.31/1)
- j) N.C. dated 09/03/2023 (Exh.16/2 & Exh.31/2)
- k) Medical documents of applicant no.1 (Exh.16/3 to 16/6)
- l) RTI information (Exh.31/4)
- m) Complaint application dated 25/09/2023 filed by applicant no.1 (Exh.31/5).
- n) Medical documents of applicant no.2 i.e. his disability certificate, medical certificate and other medical documents (Exh.31/6 to Exh.31/25)

08) In support of his claim, respondent no.1 have not filed any documents.

09) Heard learned Advocate Shri. M.A. Solkar, for applicants. Respondent no.1 argued in person. Advocate for applicants argued that, during the cohabitation, applicant no.1 has been subjected to

violence by respondents. Since the date of separation, respondent no.1 neglected to maintain the applicants. Applicant no.2 is intellectual disable. Respondent no.1 did not made any arrangement for their livelihood. This prima facie shows that, respondent no.1 is causing economic and mental abuses to applicants. Respondent no.1 is financially sound and he is enjoying lavish lifestyle. Thus, applicants are also entitled for the same standard of living. He lastly argued that, it will take come time to reside the case on merit. In such circumstances, applicants may be granted interim relief as prayed for.

10) Per contra, respondent no.1 argued that, allegations are false. Respondents never subjected applicant no.1 to any kind of ill-treatment. Applicant no.1 is educated and she is capable to maintain applicants. In such circumstances applicants are not entitled for any relief. At present respondent no.1 is unemployed. He is not in position to pay any kind of maintenance. He is also having responsibility of his parents and other family members. On the above reasons, he prayed to reject the application.

11) Having heard rival arguments and on perusal of record following points arose for my determination and I record my findings against each of them for the reasons enumerated below.

Sr. No.	POINTS	FINDINGS
1	Does the applicant prima facie established that, she was in domestic relationship with respondents and respondents have caused domestic violence or they are likely to be subjected her to the domestic violence?	Yes
2	Whether applicant is entitled for interim	As per final

	maintenance as claimed or any other amount?	order
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REASONS

12) To start with the uncontroverted facts. Considering the material before the court, following are the undisputed proposition.

- a. Marriage between applicant no.1 and respondent no.1.
- b. Birth of applicants no.2 and his custody with applicant no.1.
- c. Separation between applicants and respondent no.1.
- d. Applicant no.2 suffering from intellectual disability.
- e. Respondent no.1 working with Mumbai College of Arts, Commerce and Science.

As to point Nos.1 & 2-

13) According to applicant no.1, during the cohabitation respondents subjected applicant no.1 to verbal, mental, physical, economic and emotional abuses. Said allegations are stated on oath.

14) According to respondent no.1, said allegations are false. Applicant no.1 was never subjected was any kind of ill-treatment.

15) So far as concerned to the allegations made therein application and counter allegations asserted in reply, both the rival parties have made vast and serious allegations against each other. In order to ascertain those allegations, trial is entailed and nothing can be inferred without evidence. Applicant no.1 being wife does not mean that, her every word is the gospel truth and the respondent no.1 being husband stating blatant lie. It is not universal truth that, there is cruelty behind every broken marriage. Marriages do fail for various other reasons which usually are not put up before the court. Hence,

to ascertain the truth, trial is required.

16) As stated above, respondent no.1 has not disputed the fact that, applicants are residing separately. It is the contention of applicants that, respondent no.1 has not made any arrangement for their livelihood since the separation. As per the applicants, they are residing separately. Admittedly, applicants have not been provided with maintenance. In this context, I am to state that, section 23 of the DV Act is enacted with intent to provide safe guards to aggrieved women or her children. The ultimate object of the provision is that, during time required for trial no one should be starved. Indeed, in view of rival pleadings one thing remained undisputed that, the applicants are left without maintenance which is sole responsibility of respondent no.1 being husband and father.

17) What is left now is to determine the quantum of interim maintenance. In this context, the applicants have prayed for above interim relief on the above stated income of respondent no.1. To corroborate the earnings of respondent no.1, applicants have not filed any document.

18) Respondent no.1 stated that, at present he is unemployed. On perusal of statement of respondent no.1 which he gave before police (Exh.31/4), it prima facie transpires that, he was employed in Dubai. Thus, it is very hard to believe that, respondent no.1 who was employed in Dubai and who is having responsibility to maintain other respondents is at present unemployed. I am of the view that, respondent no.1 has taken the plea of unemployment only with an

intention to conceal his actual income and to avoid maintenance. Respondent no.1 has also not filed his assets and liabilities affidavit on record. It is worth to note that, in today's era, even a labor earns more than Rs.500/- per day out of labor work. In such circumstances, it can be inferred that, respondent no.1 who is physically fit, who is having experience of working in Dubai and who is maintaining himself as well as other respondents, is earning more than Rs.30,000/- per month. Respondent no.1 is maintaining himself. Thus, in such circumstances, he is under legal obligation to support and maintain his wife and his child. Therefore, Rs.30,000/- per month as income of respondent no.1 needs to be considered while determining interim maintenance. Indeed, considering the income of the respondent no.1, I am to state that, the applicants cannot be allowed to be left at stack and starving till the conclusion of trial. So also considering the fact that, in today's era where the inflation is sky high and fact that applicant no.2 is sufficient from intellectual disability, it will be just, legal and proper to grant interim maintenance of Rs.5,000/- (Rs. Five Thousand Only) per month to applicant no.2 and Rs.3,000/- (Rs. Three Thousand Only) per month to applicant no.1.

19) As regards to protection order, without evidence, I am not inclined to award the same at this interim stage. Consequently, I reckon to pass following order.

ORDER

1	Respondent no.1 shall pay interim monthly maintenance of Rs. 5,000/- (Rs. Five Thousand Only) to applicant no.2 & Rs.3,000/- (Rs. Three Thousand Only) to applicant no.1 since the date of filing application i.e. 17/12/2022.
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2.	The applicants and respondents to lead their evidence as expeditious as possible without unwarranted adjournments.
3.	Cost in cause.
4.	Copy of order be given to both the parties free of cost and one copy be sent to concerned police station.

Shrivardhan
Date: 28/08/2025

(S.K.Shaikh)
Judicial Magistrate First Class,
Shrivardhan.