

ORDER BELOW EXH.04.
(Passed on this 17th Day of August, 2022)

01- The applicant sought instant application under section 23 of The Protection of Women from Domestic Violence Act, 2005 for grant of interim maintenance. It is the contention of the applicant that she is legally wedded wife of the non-applicant. The marriage between the applicant and non-applicant has been solemnized on 26/12/2008 as per the provisions of Hindu religions rights, customs and usages prevailing in the caste. Thereafter, she went for cohabitation of non-applicants house at village Aware, Tal.Uran. During marital wedlock she begotten two sons namely Preet and Meet where the studying in 5th standard and in nursery class respectively.

02- It is further contended that, she is third wife of non-applicant. First wife of non-applicant deserted him and second wife has been died. As per say of her grand parents and being orphan she has got married with him. The non-applicant being older age is having suspicious nature where use to bit her children. He frequently assaulted her by kick and glows without providing sufficient food, also use insulting words before her relatives. Thus he subjected her physical and mantel harassment. On 07-07-2020 he drove away her from matrimonial house where she constrained to reside her village Chirner in rented house. Since then the non-applicant neglected to maintain them and did not pay single pie though he have sufficient source of

income and agricultural field.

03- Per contra, the non-applicants resisted the application by filing (Exh.17). It is contended that applicant no.1 is his third wife and the non-applicants no. 2 & 3 are his children. He has got married with the applicant no.1 after death of his second wife Dipa Bhoir. It is further contended that after marriage the applicant no.1 well cohabited with him but thereafter she use to ill-treat his son Tanmay who is born out of his second marriage. She is short tempered and frequently raise quarrel on trifling issues. The applicant is being characterless lady use to wonder here and there with one Kemesh Kamlakar Patil and other stranger males.

04- It is next contended that he has never ill-treated her where she has left his company at her own accord. She is earning Rs.10,000/- by working at Sanjay Footwear, Koproli and also Rs. 20,000/- by running a beauty parlor. On the contrary he is earning just Rs.7,150/- Per month by working in the company 40 km away from his native place and he have also responsibility of ill-health son Tanmay. Contending all this he submitted for rejection of the application.

05- I have perused application, say, record and given thoughtful consideration to the arguments canvassed by Ld. Advocates of both parties. Considering rival submissions following points arise for my

determination to which I record my findings thereon on the reasons as follows :

<u>Points</u>	<u>Findings</u>
1 Whether the applicants are entitled for interim maintenance as claimed? If, yes, at what rate ?	...Yes. Rs. 1,000/- to the applicant no.1 and Rs.500/- each to the applicants no.2 and 3 per month.
2 What order ?	...Application is partly allowed as per final order.

REASONS

As to points no.1 :

06- Admittedly, the applicant no.1 is a wedded wife and rest of the applicants are son of non-applicant. From the submissions made by the applicant and the documents filed on record, it is clear that the applicant is residing separately from the non-applicant. Prima-facie it appears that the non-applicant compelled the applicant to reside separately. Whether the allegations of physical and mental harassment of the applicant no.1 by the non-applicant as stated in the application are correct or not is a matter of the evidence which needs to be decided

on merits by availing opportunity of adducing the same to both the parties.

07- It is an admitted fact that the applicants are residing separately from the non-applicant. As the applicant no.1 is the wedded wife and other applicants are sons of the non-applicant it is his moral as well as legal responsibility to maintain them.

08- The learned advocate for non-applicant while argument drawn attention of this Court towards one pay slip, hand written chit dated 18/07/2020, letter dated 01/10/2021 and one photograph which is filed below list Exh.19 and submitted that those documents itself reveals the non-applicant receiving an inadequate sum of amount towards salary. It is also submitted that the photograph also reveals unchastity of the applicant no.1. On the other hand learned advocate for applicants submitted that, on the basis of the alleged photograph any adverse inference regarding chastity of the applicant no.1 cannot be drawn. However, submissions of the learned advocate for non-applicant can be considered after full fledged evidence by giving opportunity of cross examination to the applicants and not at the interim stage.

09- The decision of main application for grant of maintenance under section 125 of Criminal Procedure Code may take some time for

its disposal on merits. Till then in my opinion the applicants needs immediate monetary help for their livelihood and to meet out daily needs. Therefore, till the decision of main application the applicants are entitled for interim maintenance from the non-applicant. As such, point no. 1 is answered in affirmative.

As to point no. 2 :

10- So far as quantum of interim maintenance is concerned as the non-applicant is an able bodied person and have to borne sufficient means to pay maintenance to the applicants. Granting interim maintenance to the applicants as per final order would meet the ends of justice. As such, in answer to this point following order is passed :-

:- Order :-

- 1- The application stands partly allowed as follows.
- 2- The non-applicant is hereby directed to pay Rs. 1,000/- to the applicant no.1 and Rs.500/- each to the applicants no.2 and 3, in total Rs.2000/- per month as an interim maintenance from the date of order till the decision of main application.
- 3- In terms of above direction instant application stands disposed of.

Uran

Date : 17/08/2022

(S. S. Khirapate)
Judicial Magistrate First Class,
Uran.