

MHSN090016912021



**ORDER BELOW EXH. 05 IN CRI. M. A. NO. 204/2021**

**NIKITA PANKAJ KAMBALE AND ANOTHER**

**VS**

**PANKAJ BALASO KAMBALE**

The present application is filed by the applicants under Section 23 Protection of Women from Domestic Violence Act, 2005.

02. From the rival pleadings of the parties, following points arise for determination and I have recorded my findings against of each of them for the reasons stated below.

**POINTS**

**FINDINGS**

- |   |                     |
|---|---------------------|
| 1. Whether applicants are entitled for interim relief as to maintenance, as prayed? | Partly affirmative. |
| 2. What order?  | As per final order. |

03. By filling the present application it is submitted that, the marriage of applicant no.1 with non-applicant was solemnized on 15.05.2016 at village Kasegaon, Tal.Walwa, Dist. Sangli according to Budhist rights and retuals. Out of said wedlock applicant no.1 gave birth to applicant no.2 on 26.01.2018. The applicant no.1 and non-applicant are in service in police department. There are difference of opinion between applicant no.1 and non-applicant and therefore, they are not residing together. The family of applicant no.1 took efforts to

resolve the differences between applicant no.1 and non-applicant, but circumstances did not change. Therefore, since May 2019 the applicant no.1 is residing at the house of her parents. The non-applicant has not taken any efforts to maintain the applicants and therefore, the applicants have filed present application and prayed interim maintenance of Rs.10,000/- per month, each and the costs of present application of Rs.15,000/-. It is further submitted that the non-applicant is in service and also having ancestral agricultural land and therefore, he is having source of income. Therefore, they prayed that application may be allowed.

04. The non applicant filed his say at Exh.16, wherein the non-applicant applicant admitted his relations with applicants and denied other contentions made in the application. He submitted that applicant no.1 has filed false application and therefore, the present application is not tenable. He further submitted that, the applicant no.1 is in service, she is having source of income. On the other hand, the parents of non-applicant are depend on him. The applicant no.1 is able to fulfill all the needs of applicant no.2. Therefore, he prayed that, application may be rejected.

05. Heard the learned advocate for the applicants and non applicant. Perused the documents filed on record by the applicants. The non applicant has not denied solemnization of marriage with the applicant no.1 and birth of applicant no.2 out of said wedlock, it shows that the applicant no.1 is legally wedded wife of non applicant no.1 and applicant no.2 is his daughter. The say filed by non-applicant shows that, divorce petition is pending between them and there relations are

strained. The application and say shows that, the applicant no.1 and non-applicant are not residing together since August, 2018. The non-applicant has not filed documents which will show that, he has taken any efforts to maintain the applicants. As the non-applicant is not taking care of applicants, itself prima facie shows that the applicants were subjected to mental and economical abuse. The applicants and non-applicants have filed on record the affidavits regarding their assets and liabilities. It shows that applicant no.1 and non-applicant are having source of income. The applicant no.1 is having source of income, she has not mentioned any specific reason for which she is entitled to get interim maintenance from the non-applicant. The salary certificate of applicant no.1 for the month of December, 2022 is also filed on record, which shows that, the applicant no.1 is getting salary of Rs.35,584/- per month. Therefore, considering the present application, it is necessary to grant the interim maintenance to applicant no.2 only. Further the contents of application in para no.1 shows that, the applicant no.1 intended to file the present application only for applicant no.2.

06. It is the contention of the applicant no.1 that, non-applicant is in service and having ancestral agricultural lands and also getting income of those properties. The applicants have filed on record 7/12 extracts of ancestral properties of non-applicant. It shows that, these properties are on the name of father of non-applicant. The applicant no.1 has not filed on record any documentary evidence which will show that the non-applicant is getting income out of ancestral properties. The salary certificate of non-applicant for the month of December, 2022 is filed on record, which shows that, after deduction he is getting salary of Rs.28,258/- per month. There might be increase in the current salary of

the non-applicant. The non-applicant has stated that, his parents are depend on him. His affidavit regarding the assets and liabilities shows that, his parents are suffering from some disease, but no documentary evidence is filed on record regarding the same. Considering the applicant no.2 is the daughter of non-applicant and she is depend on the non-applicant, being his daughter, it is a duty of the non-applicant to maintain her. The documents filed on record shows that, the applicant no.2 was studying in Jr.K.G. in the year 2022 and her fee receipts are filed on record, which shows that, the applicant no.2 requires interim maintenance from the non-applicant for the purpose of her education and for day today needs. Therefore, I hold that, applicant no.2 is entitled to get interim maintenance. Hence, I answer point no.1 party affirmative and proceed to pass the following order.

**ORDER**

1. Application is partly allowed.
2. Non applicant is directed to pay sum of Rs. 5,000/- (Rs. Five Thousand) per month to the applicant no.2 as a interim maintenance since the filing of this application.

Date : 02.02.2024  
Place : Tasgaon.

Sd/-02.02.24  
(Omprakash M. Mali)  
Judicial Magistrate, F.C., Tasgaon.  
(Court No.1)

I affirm that, the contents of this P.D.F. file judgment/order are same, word to word, as per the original judgment/order;

Name of the Stenographer : U.P.Patil  
Court : Civil Judge Jr.Dn. and Judicial  
Magistrate F.C., Tasgaon.  
Date : 02.02.2024  
Judgment/Order signed by : 02.02.2024  
the Presiding officer on  
Judgment/Order uploaded on : 03.02.2024