

Order below Exh.45 in
Cri. M.A. No. 54/2017
CNR-MHSN12-000377-2017
(Surekha Kadam ors. Vs. Kiram Kadam Ors.)

This is an application filed by the applicant for defence struck off.

2. It is averred in the application that respondent is not obeying the order of Court passed vide exh. 5 regarding interim maintenance. It is averred that court has passed the interim maintenance of Rs. 1000/- (Rs. One thousand) in favour of applicant no. 1 and Rs. 1500/- in favour of applicant no. 2 per month and applicant has filed Cri. M.A. vide no. 41/2019 wherein the interim maintenance amount is total Rs. 70,000/- and only some few amount is deposited and respondent is not complying the order of the court.

3. Respondent filed the say and stated that respondent has paid 16500/- and due to Covid-19 it was not possible for him to pay remaining amount. Hence, he prayed for rejection of application.

4. Heard the learned advocate for the applicant . He argued that respondent has to obey the order of the court and has to obey interim maintenance and he is not deliberately obeying the order of interim maintenance. Hence, he prayed to allow the application.

5. Learned advocate for the respondent strongly opposed the application and argued that defence cannot be struck off as prayed for. He further argued that due to Covid-19, respondent was not able to come before the Court. Hence, amount was due and therefore, he prayed for rejection of application.

6. The object of the Protection of Woman from Domestic Violence Act, 2005 has to be looked into and the act is enacted for welfare of the women and protection of their rights. As Subsection (2) of Section 28, empowers the Court to follow its own procedure for disposal of any interim application. Considering the powers granted as per the said subsection as well as considering the object of the Act and the factor that amount of more than Rs. 45,000/- is due from the respondent and the conduct of the respondent towards the disobeying the order of interim maintenance, it is the fit case for striking off the defence of the respondent. Reference is also essential to case of *Swati Koushik Vs. Ashwani Sharma, 2019 (SCC) Online, Delhi, 7133*, wherein Hon'ble Delhi Court has taken into consideration the provisions of Protection of Woman from Domestic Violence Act, 2005 and held that for non payment of maintenance/ arrears of maintenance defence of respondent can be struck off. Accordingly, I pass the following order.

ORDER

1. Application is allowed.
2. Defence of respondent is struck off till interim maintenance amount of Rs. 70,000/- (Rs. Seventy Thousand) gets recovered.

Date : 11/10/2021
Place : Palus.

Sd/-
(N.D. Rudrabhate)
Judicial Magistrate,F.C., Palus

CERTIFICATE

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

Name of Stenographer : Pravin G. Sabale

Court : Jt. C.J.J.D. & J.M.F.C., Palus

Date : 11/10/2021

Signed by the Presiding : 11/10/2021
Officer on

Uploaded on : 12/10/2021