

PWDV Appl.3/2022

Asmita Vs. Vijay

MHWR060001402022



Order below Exh-9

The applicants filed this application under section 23 of the Protection of Women from Domestic Violence Act, 2025.

02. It is the contention of applicants that on 28.07.2021 in the morning the non-applicant no. 1 from house and did not return. Since then applicant no. 1 is living life on the mercy of her brother. The NA has mentally and physically tortured to the applicants. Therefore, the applicant are lonely residing in the house of NA. Applicants have no source of income to maintain themselves. NA is earning income of Rs. 40,000/- to 45,000/- per month from his private work. His also earning the amount of Rs. 8,000/- per month from rent of his godown. The NA inspite of having sufficient means of income deliberately avoiding to pay the maintenance to the applicant. Hence, prayed to maintenance amount of Rs. 25,000/- per month to the applicant no.1 and Rs. 10,000/- per month to the applicant no. 2.

03. The non-applicant has filed his say and also filed on record pursis stating that his say kindly be cosidered for say on interim application. The NA has admitted the relationship with the applicant but denied the other contentions. He has denied all the allegations of domestic violence levelled against him.

04. He has further submitted that the applicants have filed false and bogus application and trying to misguide to the Court. The NA due to the cruelty and threatening of applicant is residing by taking room on rent from dt.28.07.2021. The applicant is running the beauty parlor and receiving the income of Rs. 35,000/- to 45,000/- per month the elder daughter of applicant is also on service and getting the salary of Rs. 50,000/- per month. The NA is not having any source of income. He is only getting the amount of Rs. 8,000/- per month from godown. He has not committed any act of domestic violence against applicants. There is also on matter is pending against applicant no. 1 i.e. RCC No. 23/2022 in the Court. Hence, he prayed to reject the application.

05. Heard, both the sides.

06. The learned advocate for NA has filed written notes of argument on record.

Sr. No.	Points	Findings
1.	Whether applicants prima facie prove that she is unable to maintain herself?	Yes
2.	Whether she is entitled for interim maintenance?	Yes
3.	What Order?	As per final order.

07. The learned advocate for applicant has submitted that that the application for interim maintenance can be filed at any stage of the

proceeding. The NA had filed the nomination form to contest the election of nagar parishad, wherein he has mentioned his income at Rs. 2,00,000/- per year. Hence, he is liable to pay interim maintenance to the applicants. On the other hand the learned advocate for NA in his written notes of argument submitted that it was directed to applicants to proceed to the matter on merit. However, to harras the NA she has filed this application. Hence, prayed to reject the application.

Reasons

08. I have gone through the record, it appears that the application for the interim maintenance can be filed at any stage of the proceeding. It is no doubt that the interim maintenance can be granted when there is extreme need. However, at the time of deciding an application for interim maintenance the trial is not completed, therefore, it needs to be decided on the basis of *prima facie* facts.

09. It appears from record that the matter is fixed for evidence and the evidence of applicant no. 1 is completed. In her cross-examination she has admitted that she is running the beauty parlor. Therefore, it appears that applicant no. 1 is having the source of income. However, it is not come on record that how much income she is getting from said beauty parlor.

10. The learned advocate for NA has relied on the Judgment of Hon'ble Bombay High Court in **Kaushik Vs. Sangeeta Kaushik Gharami 2014 Law Suit (Bom) 1481**, wherein the Hon'ble Bombay High Court in para 8----

It is thus, clear that the monetary relief is available for the children of the aggrieved person if the monetary relief is required to meet the expenses incurred by the aggrieved person as a result of domestic violence. The

monetary relief is also permissible in case losses are suffered by the aggrieved person as a result of the domestic violence. The monetary relief is available to children of the aggrieved person under Section 20 of the Act. However, the aggrieved person is under obligation to establish that she had to meet the expenses incurred and losses suffered due to domestic violence on the part of the respondent. In the present case, since the learned Magistrate has come to a conclusion that the domestic violence could not be proved and since that finding of the learned Magistrate has not been challenged by the aggrieved person, it follows that no relief could have been given to respondent Nos. 2 and 3 also.

11. It appears from the above judgments that the children of the aggrieved person are also entitled for maintenance. In this matter prima facie it appears that the applicant no. 2 is also suffering from the relations between the parties. Therefore, she is also entitled for maintenance.

12. He has also relied on the Judgment of Hon'ble Bombay High Court in **Sejal Dharmesh Ved Vs. State of Maharashtra and others 2013 Law Suit (Bom) 814**, wherein the Hon'ble Bombay High Court in para 5----

A wife who lived in a domestic relationship earlier, but which ceases only because of any domestic violence can certainly file an application for such domestic violence that took place whilst she lived in that relationship. Such application is required to be filed within a reasonable time to show that relationship would give her the cause of action to sue under the D.V. Act for the reliefs under the Act.

13. The NA has admitted that he is getting the salary of Rs. 8,000/- per month from the rent of godown. However, he further stated that now he is

not getting said rent. It also appears that the applicants have filed on record the copies of nomination from of NA filed by him to contention the election of municipal council. Wherein he has mentioned his income of Rs. 2,00,000/- for year. Therefore, *prima facie* it appears that he is earning some amount. It is the matter of trial that whether the act of domestic violence was committed by NA with the applicants or not. The appplicants and NA are residing separately therefore, their relations are not good, which shows that there is dispute between the parties. However, at this stage it appears that NA is liable to pay some amount of maintenance to the applicants. However, by considering the fact that applicant no. 1 is getting some income from beauty parlor, she is not entitled to get maintenace as per her prayer. Hence, I pass the following order.

Order

1. Application is partially allowed.
2. NA is directed to pay amount of Rs. 1,200/- per month to applicant no.1 and Rs. 8,00/- per month to applicant no. 2 from the date of this order.

Date : 30.03.2026
Place : Hinganghat

(Shri. A.B. Ingole)
Judicial Magistrate First Class,
Court No.2, Hinganghat.

C E R T I F I C A T E

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

Name of the Stenographer : B. S. Wani.

Court : 2ndJt.CJJD& JMFC, Hinganghat.

