

MHWS100009432020



ORDER BELOW EXH.05 P.W.D.V.A. NO.16/2020

Sapna Mukesh Rathod Vs. Mukesh Shamrao Rathod

Passed on 05th October, 2023

1. This is an application filed by the applicant No.1 for grant of interim maintenance of Rs.15,000/- (Fifteen Thousand Rupees Only) per month from respondent No.1 till disposal of the main application.
2. Perused the application and say. The respondent No.1 filed say to this application at Exhibit-12.
3. Heard Ld. Advocate for applicant and Ld. Advocate for the respondents.
4. I have given thoughtful consideration to the argument advanced by learned advocates for both parties.
5. Considering argument advanced by both parties following points arose for my determination and I record my answers thereon for the reasons stated thereunder.

Sr.No.	<u>POINTS</u>	FINDINGS
1.	Whether the applicant No.1 is entitled for interim maintenance? If yes what is the quantum ?	Yes. (Rs.2000/- per month from the date of application)
2.	What order ?	As per final order.

REASONS

AS TO POINT NO.1 :-

6. The applicant filed main application under Section 12 of the Protection of Women from Domestic Violence Act for various reliefs. The respondents have admitted relationship with applicants. At the time of deciding application for interim maintenance, it is not necessary to discuss on merits of the application. The main purpose of granting interim maintenance is to support the person who is unable to maintain themselves during pendency of this application.

7. The Ld. Advocate for applicant submitted that, the documents filed by the respondents cannot be read at this stage. The contents and signature over the consent deed is denied by this applicant. The alleged consent deed which shown as divorce by mutual consent is not admitted by this applicant. The same is not by the decree of the Court. The allegations in the application are before the presentation of the application. Therefore, the domestic incident is occurred at the hands of the respondents. Thus, the applicants are entitled for the maintenance.

8. Per contra, the Ld. Advocate for the respondents submitted that, the son and daughter are in custody of the respondent No.1. As per consent deed the applicant and respondent No.1 has no right as the husband and wife. He has relinquished all the right. On 02.11.2022 the domestic relationship comes to an end. The applicant before the father and mother of the respondent No.1 and applicant admitted that she did not went to reside with the applicant No.1. Even, the document placed on record she has illicit relationship with another person. Thus, she is not entitled for the interim maintenance. Hence, prayed to reject the application.

9. Perused the affidavit of assets and liabilities of the applicant No.1 at Exh.14 which show that her monthly expenditure is 15,000/- rupees. The she has no source of income. She stated in her affidavit of disclosure of assets and liabilities that, her daughter and son reside with the respondent No.1. On the contrary, the affidavit of assets and liabilities of the respondent No.1 at Exh.13 Which shows that his income is 30,000/- rupees per year. Moreover, he has a responsibility of his son, daughter and parents.

10. As the relationship is not disputed, it is the bounden duty of respondent No.1 to maintain the applicant. At present applicant No.1 is residing at her parental house. On perusal of the main application it appears that, application is presented on 03.08.2020. The documents filed by the respondent No.1 shows that the respondent No.1 lodged one missing report of the applicant on 10.08.2020. It is crystal clear that, the missing report is after 03.08.2020. The consent deed which shown as a divorce by mutual consent is not admissible in the law. It is not the decree of competent court.

11. The respondent No.1 also filed one statement of applicant to show that, she went with one person. The statement is dated 02.11.2020. All the allegations in the appolication are before the date of presentation of the application. The applicant No.1 has domestic relationship with the respondent No.1. The respondent No.1 also filed photographs of the applicant No.1 with one person. At this juncture, it cannot be conclude that the applicant No.1 has illicit relationship with a person. As the relationship is admitted, the respondent No.1 has bounden duty to maintain the applicant. The respondent No.1 has filed his affidavit of disclosure of assets and liabilities which shows that, his son and daughters are resides with him. The applicant No.1 also submitted in his affidavit of disclosure of assets and

liabilities admitted that, applicant No.2 and 3 resides with respondent No.1. Therefore, only the applicant No.1 is entitled for the interim maintenance amount. *Prima-facie* it reveals that the applicant No.1 was subjected to the domestic violence at the hands of respondents. Applicant No.1 is unable to maintain herself. At this juncture, *prima-facie* neglect and refusal to maintain is the sufficient grounds to grant interim relief. The object of the act is to protection and welfare of the aggrieved person therefore, I am of the opinion that the applicant No.1 is entitled for maintenance.

12. Respondent No.1 has filed income certificate which shows that his income is 30,000/- rupees per year. Moreover, he has the liability of his son, daughter and parents.

13. The applicant must be in a proper condition to proceed with this application. The respondent No.1 is legally as well as morally bound to maintain the applicant No.1 being his wife. At the time of deciding this application it will not just and proper to discuss on merits of the application and income of respondent. Even, the allegations after the presentation of application cannot be considered as a proof of illicit relationship of the applicant No.1. Therefore, taking into consideration *prima-facie* income of respondent No.1 and basic needs of applicant No.1, it is necessary to provide a reasonable interim maintenance to the applicant No.1. Considering all these aspects, I am of the opinion that, the applicant is entitled for interim maintenance. Applicant No.1 is entitled for interim maintenance of Rs.2000/- (Two Thousand only) per month from the respondent No.1. Therefore, I answer point No.1 in affirmative.

AS TO POINT NO.2 :-

13. In view of my affirmative answer as to point No.1 the applicant

No.1 is entitled for interim maintenance of Rs.2000/- (Two Thousand only) from the date of filing of this application till disposal of main application. Therefore, this application is liable to be partly allowed. Hence, in order to answer point No.2, I pass following order :-

ORDER

1. This application is partly allowed.
2. The respondent No. 1 do pay interim maintenance of Rs.2000/- (Two Thousand only) to the applicant per month from the date of filing this application i.e. **30.07.2020** till the disposal of the main application.
3. Copy of this Order be given free of costs to the parties of application vide Section 24 of the Protection of Women From Domestic Violence Act.
4. Copy of this order be given to Police Officer In-charge of Police Station, Malegaon vide Section 24 of the Protection of Women From Domestic Violence Act.

(Dictated and pronounced in open Court)

Place : Malegaon.

Date : 05.10.2023

[Pravin U.Kulkarni]

J.M.F.C. (Court No.2) Malegaon
Dist. Washim.

CERTIFICATE

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

Name of the Stenographer : **Shivam B. Patange (L.G.)**

Court & Judge Name : P.U.Kulkarni
Jt. C.J.J.D. & J.M.F.C., Malegaon.

Date of Order : 05.10.2023

Order signed by the

Presiding Officer on : **06.10.2023**

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