

Order below Exhibit 5-A

(Passed on 23/11/2023)

This is an application for grant of interim maintenance during the pendency of the main application filed under section 12 of the Protection of Women from the Domestic Violence Act 2005 (for short D.V. Act). The applicant got married to non-applicant no.1 on 02/12/2019 at village: Darwha, Tahsil: Darwha, District: Yavatmal and after the marriage, she went to co-habit with the non-applicant no.1 at village Bhangarwadi Kujgaon Bu. Lonawala, Tahsil: Mawal, District: Pune. They were blessed with a son Ojesh/Ojas, applicant number 2 and he is living with his mother. She was physically and mentally tortured by the non-applicants, by assaulting her, providing her with stale food, kept relations with another lady Ayesha Patel, failed to make arrangement for their maintenance during her stay at her parents' house and completely deserted them. The non-applicant number 1 is at service at a company and gets a monthly income of Rs.35,000/- to 40,000/-. They are therefore, entitled for an interim maintenance of Rs.13,000/- per month from him. He is not required to discharge any responsibility of anybody than the applicants. The application may take its time for disposal and hence, she shall be required to be provided with the interim maintenance by the non-applicant number 1.

2. The non-applicants have filed their reply at Exhibit 13 and admitted the relationship with the applicant and with Ojas/Ojesh but denied all the allegations regarding causing any sort of domestic violence to the applicants like assaulting applicant number 1,

providing her with stale food, keeping relations with another lady. They submitted that the applicant number 1 had polluted the family atmosphere with tensions, stress and fear by her conduct and used to advance threats. The non-applicant number 1 was required to live separate from his parents at Pune in a rented premises. He is spending Rs.4500/- towards monthly house rent and Rs.2500/- towards monthly mess charges and Rs.3000/- towards other expenditures. He earns a net monthly income of Rs.13,935 to 15,815/- from his service. She left his company on her own accord. He cannot provide any interim maintenance to the applicant as nothing remains in his hands after spending the money on household liabilities. The applicant has left his company out of her own sweet desire and hence, she is not entitled to any maintenance. She is having earning source as she is well educated and was working as a teacher. She is taking private tuitions and earns Rs.15,000/- to 20,000/- per month and can easily discharge her expenses. They prayed for rejecting the application.

3. I have perused the record, say thereon, and heard the Ld. Advocate for both sides at length. The Ld. Advocate for both the sides based their submission as per the contention made in the application and reply thereto. On the perusal of record, it shows that the applicant has not filed anything on record to show that the non-applicant no.1 earns the income to that extent. The non-applicant number 1 has filed on record the salary slips, rent receipts, mess receipts, chats shared on Whatsapp. The salary slips appear to be without the signature and stamp of the authorized officer or employer of the non-applicant number 1. The basic salary is mentioned as 7,344 but the essential

component of dearness allowance is missing in it and it is not shared. He is thus, concealing his real income and this could be easily gathered from his clever attempt. The parties to the application have made allegations on each other and the truth of those can be adjudged after the evidence is recorded. The fact that the applicant number 1 left the company of the non-applicant is a matter of evidence. The fact of admitted relationship between the spouse and the child is on record. The fact that the applicants are residing at her parents' house is also admitted. The responsibility of maintaining the wife during the subsistence of the marriage is upon the husband and this responsibility needs to be discharged not only as a legal consequence but also as a moral duty.

4. The grant of interim maintenance is only a step-in aid for safe-guarding the interest of a woman/aggrieved person who is facing domestic violence in some or the other manner. The law on domestic violence is the beneficial legislation and it seeks to protect the aggrieved person from such violence. It is pertinent to note here that the non-applicant has not averred anything about providing any maintenance to the applicants for the period of her stay with her parents and even now. He has not shown that he spent or provided anything to discharge his liability towards the applicant number 2, a boy of tender age by filing receipts to that effect.

5. Thus, the conduct of the non-applicant number 1 cannot be said to be bonafide and hence, he is bound to provide interim maintenance to the applicants in the light of the existence of a marriage. The non-applicant number 1 has assessed his monthly

expense for meals at Rs.2500/- and for his other expenses at Rs.3000/- i.e. a total of Rs.5500/-. In view of this the applicants are also needing more or less the same set of expenses and an additional education expense of Ojesh/Ojas is also to be taken into account and the non-applicant number 1 is, therefore, bound to provide a monthly interim maintenance of Rs. 7,000/- to the applicant from the date of filing the main application. The non-applicant number 1 shall discharge the responsibility of payment of balance interim maintenance within the period of 01 month from the date of this order.

Hence, I proceed to pass the following order.

ORDER

1. The application Exhibit 05-A is hereby partly allowed.
2. The non-applicant number 1 shall pay a monthly interim maintenance of Rs. 7,000/- from the date of application till the final decision of the main application. The arrears of the interim maintenance shall be cleared off within a span of 01 month from the date of this order. Copy of the order may be provided to the parties.

Date 23.11.2023

M.M.Kalyankar
Judicial Magistrate F.C.
Darwha