



Order Below Exh. 02 in P.W.D.VA Application No. 63/2023

01) Through this application, applicant is praying for interim monetary relief under section 23 sub-clause 2 of the Protection of Women from Domestic Violence Act, 2005 (hereinafter referred as 'DV Act' in short).

02) The encapsulated facts of the applicant's case are that, applicant and respondent no.1 are husband and wife. Their marriage was solemnized on 24/04/2022 as per Hindu rites and rituals in presence of their respective family members, friends, relatives and acquaintance of both (hereinafter referred as '**the said marriage**' for the sake of brevity). Respondents no.2 to 4 are the in-laws of applicant.

03) It is the contention of applicant that, after the said marriage, applicant started cohabiting with respondents at her matrimonial house at Nagpur. For few months, the marital life of applicant was peaceful. However, thereafter, respondents subjected applicant to verbal, mental, physical, economical and emotional abuses.

04) It is the further contention of applicant that, on 30/04/2023, respondents willfully and without any cause dragged applicant out of her matrimonial house. Respondents did not allow applicant to enter and reside at their matrimonial home.

05) It is further contention of applicant that, after the separation of applicants, respondent no.1 neither made arrangement of any alternate accommodation nor provided any kind of maintenance to them. Resultantly, through this application, applicant is praying for monthly interim maintenance of Rs.30,000/-.

06) The applicant further contented that, respondent no.1 is a Software Engineer working with City Corp Services, City Bank. Out of the said employment, respondent no.1 is earning around Rs.14 Lakhs per annum. Respondents are also having immovable properties in form of house and vacant land. Respondents no.3 is a retired person and he is receiving monthly pension. Thus, respondent no.1 is financially very stable and enjoying a lavish life. Applicant lastly submitted that, apart from applicant, no other persons are dependent upon respondent no.1. Applicant filed her assets and liabilities affidavit at Exh.19.

07) After service of notice, respondent no.1 appeared and filed his Say at Exh.18. Respondent no.1 admitted his relation with applicant. Respondent no.1 further admitted the separation between him and applicant. However, respondent no.1 denied each and every allegation pleaded by applicant. According to him, respondents never subjected applicants to any kind of verbal, mental, economical, physical and emotional abuses as alleged and which comes under the scope of domestic violence as defined in the DV act.

08) Respondent no.1 submitted that, during cohabitation, applicant was least interested to cohabit with respondent no.1. Therefore,

without any sufficient cause, applicant herself deserted respondent no.1 and deprived respondent no.1 from her company. Respondents never dragged applicant out of her matrimonial house. Applicant herself left her matrimonial house with any sufficient reasons.

09) Respondent no.1 denied that, he is working with City Corp Services, City Bank and he is earning around Rs.14 Lakhs per annum. Respondent no.1 submitted that, he is ready to cohabit with applicant. However, without any cause residing separately. Due to said conduct of applicant, applicant is not entitled for any maintenance. Respondent no.1 filed his Assets and Liabilities affidavit at Exh.20 and Exh.24.

10). In support her claim applicant has filed following documents :-

- a. Adhar Card of applicant
- b. Marriage card
- c. Employment ID card of respondent no.1 (Exh.22/1)

11) In support of his claim, respondent no.1 have not filed any documents.

12) Heard learned Advocate Lanare for applicant and learned Advocate Shrin Pathan (for Advocate Chandane) for respondent no.1. Advocate for applicant argued that, during the cohabitation, applicant was subjected to violence by respondents. Since the date of separation, respondent no.1 have avoided applicant in each and every aspect. He did not made any arrangement for her livelihood. This prima facie shows that, respondent no.1 is causing economic and mental abuses to applicant. Respondent no.1 is financially sound

and he is enjoying lavish lifestyle. Thus, applicant is also entitled for the same standard of living. She lastly argued that, it will take some time to resolve the case on merit. In such circumstances, applicant may be granted interim relief as prayed for.

13) Per contra, advocate for respondent no.1 argued that, applicant during the cohabitation has not filed any complaint against the respondents. This itself shows that, applicant was not subjected to any violence and she herself deserted the respondents without any cause. He lastly argued that, respondent is ready and willing to cohabit with applicant. However, applicant is avoiding the same. In such circumstances applicant is not entitled for any relief. On the above reasons he prayed to reject the application.

14) Having heard rival counsel for the applicant and the respondent and on perusal of record following points arose for my determination and I record my findings against each of them for the reasons enumerated below.

Sr.No.	POINTS	FINDINGS
1	Does the applicant prima facie established that, she was in domestic relationship with respondents and respondents have caused domestic violence or they are likely to be subjected her to the domestic violence?	Yes
2	Whether applicant is entitled for interim maintenance as claimed or any other amount?	As per final order

REASONS

15) To start with the uncontroverted facts. Considering the material before the court, following are the undisputed proposition.

- a. Marriage between applicant and respondent no.1.
- b. Separate residence of applicant.

As to Points No.1 & 2-

16) According to applicant, during the cohabitation respondents subjected applicant to verbal, mental, physical, economic and emotional abuses. Applicant has not filed any documents concerning the same. Said allegations are stated on oath.

17) According to respondent no.1, during the cohabitation, applicant was least interested to cohabit with respondent no.1. Applicant herself deserted respondent no.1. However, respondents have not filed any documentary evidence to that effect. Said allegations are also stated on oath.

18) So far as concerned to the allegations made therein application and counter allegations asserted in reply, both the rival parties have made vast and serious allegations against each other. In order to ascertain those allegations, trial is entailed and nothing can be inferred without evidence. Applicant being wife does not mean that, her every word is the gospel truth and the respondent no.1 being husband stating blatant lie. It is not universal truth that, there is cruelty behind every broken marriage. Marriages do fail for various other reasons which usually are not put up before the court. Hence, to ascertain the truth, trial is required.

19) As stated above, respondent no.1 has not disputed the fact that,

applicants are residing separately. It is the contention of applicant that, respondent no.1 has not made any arrangement for her livelihood since the separation. As per applicant, she is residing separately at the mercy of her parents. Admittedly, she has not been provided with maintenance. In this context, I am to state that, Section 23 of the DV Act is enacted with intent to provide safe guards to aggrieved person. The ultimate object of the provision is that, during time required for trial no one should be starved. Indeed, in view of rival pleadings one thing remained undisputed that, the applicant is left without maintenance which is sole responsibility of respondent no.1 being her husband.

20) What is left now is to determine the quantum of interim maintenance. In this context, the applicant has prayed for above interim relief on the above stated income of respondent no.1. To corroborate the income of respondent no.1, applicant has filed the employment ID card of respondent no.1. From perusal of said ID card, it transpires that, respondent no.1 was working with City Corp Services, City Bank as Assistant Manager in the year 2018-2021.

21) It is worth to note that, respondent no.1 in his Assets and Liabilities affidavit(Exh.20), stated that, at present, respondent no.1 is performing work (वेळेनुसार मिळेल ते काम) and out of the said work, he is earning amount accordingly (कामावर अवलंबून). As stated above, respondent no.1 has admitted that, he has completed MCA and on basis of said degree, he was working with Supra company. Considering the said educational qualification and experience of respondent no.1, I am of the view that, the plea taken by respondent

no.1 that, at present, he is performing work (वेळेनुसार मिळेल ते काम) and out of the said work, he is earning amount accordingly (कामावर अवलंबून) is just an excuse to conceal his actual employment with an intention to avoid maintenance to applicant. At this prima facie stage, without any documentary evidence, it cannot be accepted that, respondent no.1 who was working as Assistant Manager in a Software company is at present performing odd computer jobs.

22) It is also nowhere disputed that, respondent no.1 is physically and mentally fit person. It is also not disputed that, during the cohabitation he was maintaining applicant and he and applicant were in Pune where respondent no.1 was working. Respondent no.1 is healthy, able bodied and maintaining himself. Thus, in such circumstances, he is under legal obligation to support and maintain his wife.

23) Therefore, considering the fact that, respondent no.1 is Software Engineer(MCA) and the fact that, he was working as Assistant Manager, it can be inferred that, respondent no.1 is minimum earning around Rs.50,000/- per month and the same needs to be considered while determining interim maintenance. It is also worth to note that, applicant has also completed her education upto M.Sc.

24) Indeed, considering the educational qualification of both the parties, income of the respondent no.1, I am to state that, the applicant cannot be allowed to be left at stack and starving till the conclusion of trial. So also considering the fact that, in today's era

where the inflation is sky high, it will be just, legal and proper to grant interim maintenance of Rs.6,000/- per month to applicant. Applicant is not having shelter of her own. In such circumstances, it is also just and legal to grant interim residential relief in form of rental allowance of Rs.2000/- per month to applicant.

25) Indeed, in adherence to the income of respondent no.1 and present inflation, I reckon to pass following order.

ORDER

1	Respondent no.1 shall pay interim monthly maintenance of Rs.6,000/- (Rs. Six Thousand Only) to applicant since the date of filing application i.e. 01/09/2023.
2.	Respondent no.1 shall further pay an amount of Rs.2,000/- (Rs. Two Thousand Only) as interim rental allowance per month to applicant since the date of filing application i.e. 01/09/2023.
3.	Applicant and respondents to lead their evidence as expeditious as possible without unwarranted adjournments.
4.	Cost in cause.
5.	Copy of order be given to both the parties free of cost and one copy be sent to concerned police station.

Wani.
Date: 30/09/2024

(S.K.Shaikh)
Judicial Magistrate First Class,
Wani.