

IN THE COURT OF ADDL. CHIEF JUDICIAL MAGISTRATE,
4TH COURT, GIRGAON, MUMBAI.

C.C. No.44/DV/2022

Sikha Sharda Ramniwala

...Applicant

Vs.

Varun Sibkumar Surekha & Ors.

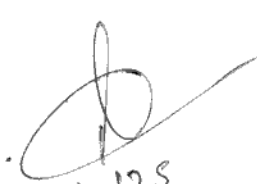
...Respondents

ORDER BELOW EXH.NO.24

1) This is an application for interim reliefs under section 23 of the Domestic Violence Act, 2005. The applicant prayed for monthly maintenance, protection order, residence order and restraining order. Read say by respondents. Heard both the sides. Perused the documents. Hon'ble Bombay High Court ordered this Court to decide Interim Application within 2 months by order dated 01.10.2025 in Writ Petition No.3002/2025.

2) Scope of present application is very limited. There is no need to go into detail merits of the case. It is the contention of the applicant that her marriage was solemnized on 04.12.2016. They are separated on 20.08.2022. Respondent has caused mental and physical violence to the applicant after marriage. They used to harass her on the point of dowry. They used to comment on her skin, hair, dressing sense. She was beaten by respondent No. 1. They have not looked after her during her illness. She was forced to leave her matrimonial house. Her application runs into 63 pages. She has mentioned various incidents of domestic violence in her application. Hence she filed present application. She prayed for monthly maintenance, protection order, residence order and restraining order.

3) Respondents have filed their say at Exh.25. They denied all allegations of the applicant. They have submitted that applicant is misusing provisions of law. She has filed present proceeding to


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pressurize the respondents. She is well educated and has capacity to earn sufficient income. There is no case to grant any relief. She has sufficient source of income. Hence they prayed to reject the application.

4) Considering rival submissions of the parties, following points are necessary to decide present application:-

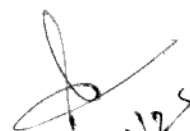
<u>SR. NO.</u>	<u>POINTS</u>	<u>FINDINGS</u>
1.	Does applicant prima facie prove that she is subjected to domestic violence by the respondents ?	...Yes
2.	Whether applicant is entitled to interim relief ? If Yes, then what reliefs ?	... Partly Yes, protection order and maintenance order
3.	What Order ?	As per final order.

:- REASONS :-

AS TO POINT NO.1 :-

5) Relationship is admitted by both the parties. Both the parties are residing separately is also an admitted fact. Both parties have made allegations against each other. Their allegations can be scrutinized at the hearing of main application. There is no need to consider all that allegations at interim stage.

6) Interim relief can be granted under section 23 of the Act when there is prima-facie case of domestic violence. Applicant very specifically submitted about domestic violence caused to her by the respondents. She has stated about various incidents. Applicant filed affidavit in support of her application. There is domestic incident report showing domestic violence against the applicant. She has also demonstrated incidents of domestic violence through her written submission at Exh.51. Prima facie she has proved domestic violence.


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Hence I answered point No.1 in affirmative.

AS TO POINT NO.2 :-

7) There is prima facie disclosure of domestic violence. Hence applicant is entitled to interim order U/Sec.23 of the Act. The applicant prayed for monthly maintenance, protection order, residence order and restraining order.

8) The applicant has claimed maintenance of Rs.60,000/-per month. She has filed her affidavit of assets and liabilities. As per that affidavit, she has income of Rs.30,000/- per month. But her expenses are Rs.70,000/- per month. She has also medical expenses. Respondent No.1 is earning Rs.1,25,000/- per month. He has various properties and investments.

9) Respondent No. 1 failed to file his affidavit of assets and liabilities. He has submitted that he has resigned from his job. But he has failed to file affidavit of assets and liabilities. Therefore, an adverse inference can be drawn against him.

10) Applicant has relied upon following case laws :-

1. Rajnish v. Neha, 2021 (2) SCC 324
2. Shailaja v. Khobanna, 2018 (12) SCC 199
3. Reema Salkan Vs Sumer Salkan, 2018 (12) SCR 350
4. Sapana Paul Vs Rohin Paul, Cri. Rev. Petition 224/2021
decided by Hon'ble Delhi High Court on 19.01.2024.

11) Relying upon that case laws, Advocate for applicant argued that there is difference between capable of earning and actual earning. Earning of wife cannot bar to award maintenance by the husband. If husband does not disclose exact amount of his income then adverse inference may be drawn. Plea of husband that he does not possess


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sufficient income does not absolve him of duty to maintain his wife. Maintenance is independent right and must be considered separately from matrimonial allegations.

12) This is application for interim relief. There is no need to go into detail merits of the case. It would be proper to rely upon affidavits of the parties. The respondent No. 1 failed to file such affidavit. He himself made statement that during cohabitation he has made all expenses for the applicant. It means that he has ability to maintain the wife. Mere statement that he has resigned from the employment does not absolve his duty to maintain his wife. Applicant herself admitted that she has some income per month. But she further submitted that her expenses are more than her income. She has very fairly admitted that fact before the Court. Respondent has capacity to give monthly maintenance. He cannot avoid his responsibility towards the applicant. At the same time, it is to be considered that applicant has also some income from her profession. While granting the interim maintenance amount, it is necessary to consider earning and expenditure of the parties, their lifestyle and today's economical condition. Considering all that facts, monthly maintenance of Rs.25,000/- would be the proper monetary relief in the present case.



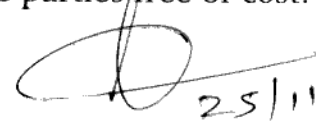
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13) The applicant has also claimed protection order, residence order and restraining order. At present, the applicant is residing with her parents. She has not given any reason as to why she require residence order. Hence that relief cannot be granted. The fact of custody of household items, jewellery and other moveable properties can be considered after evidence of both the parties. Unless that evidence come on record, order cannot be passed in respect of that articles. Hence restraining order cannot be passed at this stage. There is prima facie proof of domestic violence. Hence protection order needs to be passed.

Considering all above aspects, I proceed to pass following order:

ORDER

- i) The application is partly allowed.
- ii) Respondent No.1 is directed to pay the maintenance amount of Rs.25,000/- p.m. (Rs. Twenty Five Thousand only) to the applicant from the date of application till final disposal of the main application.
- iii) Respondents are ordered not to commit any kind of domestic violence against the applicant.
- iv) Copy of this order be given to both the parties free of cost.

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(S. R. Nimse)

Judicial Magistrate, First Class

4th Court, i/c.4th Court, Girgaon, Mumbai.

Dt. 25.11.2025

^{sas}
copy of order received from dt 6/25
 1) Applicant — Received copy on 25/11/2025
 S. Raniwala @ 4:30 pm
 2) Respondent —