

Order below Exh.5 in H.M.P. No.18/2017.

1) This is an application made by applicant Madhuri Radhakishan Shinde under section 24 of Hindu Marriage Act for granting interim maintenance.

2) It is stated that marriage of the applicant and non-applicant took place on 29/05/2011 at Shahada, Tal. Shahada as per Hindu Rites and their wed tie is in subsistence till today. Main application is filed for Restitution of Conjugal Rights. However, non-applicant did not manage to pay anything to the applicant for the purpose of paying her advocates fees, maintenance amount, expenses of traveling charges etc. applicant is having no any source of income and unable to maintain herself. She is residing at her parents house and depends on the income of her parents. She is facing for starvation.

3) Further it is stated that, applicant has to attain the Court on each and every date, also she has to brought with her one relatives. She has to engage the advocate and for that, purpose advocate fees of Rs.10,000/- is required. Expenses of litigation of Rs.5,000/- are required to her. Accordingly, total litigation expenses of Rs.15,000/- required to her. And for the purpose of her maintenance amount of Rs.10,000/- per month is required.

4) The non-applicant is residing at Nashik and

working in the company. He is drawing the salary of Rs.30,000/- p.m., his father is also drawing the salary of Rs.20,000/-. Accordingly, their standard of living Rs.10,000/- p.m. are required to the applicant for her maintenance.

5) The non-applicant Radhakishan Pandit Shinde by filing say at Exh.No. 17 stating that, applicant is residing in the Shahada city. Hence, she is not entitled for traveling charges. She herself deserted the non-applicant. Hence, she has no any right to claim for maintenance. Non-applicant is in service but, he is drawing meager salary amount. Beside this he has to maintain his father, mother and family members. He is earning member in their family. Therefore, he has to spent much amount for the maintaining of his family. His parents are old age persons and he has to expend the money for their medicine. Applicant herself deserted him and leading luxurious life at Shahada. She is not interested to cohabit with the non-applicant. Non-applicant is from poor family. Applicants father is doing the business of milk at Shahada and getting the monthly income of Rs.30,000/-. Also he is running Grocery Shop and getting the monthly income of Rs.25,000/- from the very shop. Non-applicant tried to take her for cohabitation but, she is not ready to cohabit with him. Merely with intent to caused physical and mental torture to the non-applicant present application is filed. Hence, prays for

rejection of application.

6) After considering the rival contentions following points arise for my determination to which, I have recorded my finding for the reasons stated below respectively.

Sr. No.	<u>Points</u>	<u>Findings</u>
1.	Whether applicant is entitled to get ad-interim maintenance as prayed? If yes what is the quantum ?	Yes @ Rs.2,500/- per month.
2	What order ?	As per final order.

REASONS

AS TO POINTS NOS.1 AND 2:

7) As per the applicant and non-applicant their marriage took place on 29/05/2011 at Shahada, Tal. Shahada as per Hindu Rites and their wed tie is in subsistence till today. Perused the application and say. Heard both the parties. It is stated by the applicant that, non-applicant deserted her since 06/02/2017. Therefore, she is residing at her parents house. Non-applicant did not manage to pay her anything towards food, clothing, medicine etc. she is residing at her parents house. She is facing starvation. She has filed H.M.P. Petition before the Curt. However, for paying the advocates fee and litigation expenses she is in need of Rs.15,000/-. Also she has to

maintain herself and for that purpose she is in need of Rs.10,000/- p.m. towards interim maintenance. She is having no source of income and unable to maintain herself.

8) Further it is stated that, the non-applicant is working in the company at Nashik and drawing the salary of Rs.30,000/- p.m. therefore, he is capable to pay the separate interim maintenance to the applicant.

9) Where as per the non-applicant though he is serving in the company at Nashik but, drawing the meager salary in which he has to maintain his family members and old aged parents. Applicant herself deserted him, she herself is not interested to cohabit with the non-applicant. Therefore, she is not entitled for any relief.

10) The existence of relationship is not denied by the non-applicant. Therefore, it is legal and moral duty of the husband/non-applicant to maintain his wife applicant. As she has specifically stated that she is having no source of income and unable to maintain herself and her son. The able bodied person is bound to maintain the applicant. The applicant stated that, non-applicant is having source of income and drawing salary of Rs.30,000/- per month. Therefore, he is capable to pay the separate interim maintenance to the applicant. Though there is no exact proof of actual income of the non-applicant. Even though irrespective of his income he is bound to maintain his wife

and pay the litigation expenses as claimed by the applicant.

Section 24 of the Hindu marriage Act provides that-

where in any proceeding under this Act it appears to the Court that, either the wife or the husband, as the case may be, has no independent income sufficient for her or his support and the necessary expenses of the proceeding, it may, on the application of the wife, or the husband, order the respondent to pay to the petitioner the expenses of the proceeding, and monthly during the proceeding such sum as having regard to the petitioner's own income and the income of the respondent, it may seem to the Court to be reasonable.

11) Accordingly, the applicant has categorically stated that, she is having no any source of income. Also she has to bear the expenses of attending the Court by traveling. Ld. Counsel for the non-applicant argued that, non-applicant is having no source of income therefore, he is unable to pay the separate interim maintenance to the applicant. Applicant is having source of income and able to maintain herself. Therefore considering this aspect and economic circumstances of the applicant and non-applicant it would be just to grant ad interim of Rs.2,500/- to the applicant. Hence I answer the points No.1 and 2 in the

affirmative and proceed to pass the following order.

ORDER

- 1) Application of the applicant Madhuri Radhakishan Shinde is partly allowed.
- 2) The non-applicant Radhakishan Pandit Shinde is directed to pay ad-interim maintenance of Rs.2,500/- p.m. from the date of filing of this application till the decision of the main petition.
- 3) The non-applicant to pay litigation expenses of Rs.3,000/- to the applicant.

Sd/-xxx

Shahada.
Date :- 02/12/2017.

(W. J. Daithankar)
Civil Judge Senior Division,
Shahada, Dist. Nandurbar.