

IN THE COURT OF JUDICIAL MAGISTRATE COURT AT SIRKALI

Present: R.Kailaash, B.A., B.L.,
Judicial Magistrate,
Sirkali

10th day of October 2025, Friday

Crlmp.No.1114/2025

in

D.V.C.No. 32 of 2024

Subasri

W/o Jenin

... Petitioner/Wife

-Vs-

Jenin,

S/o Jagatheesan

... Respondent /Husband

This petition came for final hearing on 10.10.2025 in the presence of Advocate Mr.M. Rajesh B.Com, B.L., counsel for the Petitioners and Mr. R. Manisankar B.A., L.L.B., counsel for the respondent. After hearing the submissions of the petitioner side and perusal of records placed before me, I understood and deliver the following,

ORDER

1. This Petition has been filed by the Petitioners/wife & children for the relief of Interim Maintenance pending disposal of the main Domestic Violence case.

2.Contention of the Petitioners:

The petitioner had filed an application seeking various reliefs under the Protection of Women from Domestic Violence Act. Right from the date of marriage, as a husband the respondent had not spent even a penny for the petitioner. But the respondent is working in a software company at Chennai and earning Rs.90,000/- per month. Having no source of income, place of residence, property and unable to maintain herself on her own, the petitioner is praying for grant of Interim Maintenance at the rate of **Rs.30,000/-** per month till disposal of the main application.

2.Contention of the Respondents:

The allegations in the petition are false, baseless and untenable. The respondent had filed HMOP No. 84/2024 before the Hon'ble Subordinate Court, Sirkali seeking divorce. The parties had lived together for 6 months after the marriage. Then, only the petitioner had severed ties and had voluntarily gone out of her matrimonial home. The respondent had repeatedly requested the petitioner to opt for joint living but she had turned down the request. Then, having no other option left the respondent had filed a petition for divorce. The petitioner is a B.Sc.B.Ed graduate and after severing ties she has been working in a private company. Also, the petitioner's family is a well settled one having many lands and through them as well the petitioner earns income. On the other hand, the respondent has been taking care of his elderly parents and he himself suffers economically. Hence, this petition is liable to be dismissed.

03. Heard both sides. Perused the case records.

04. This petition is for the relief of interim maintenance pending disposal of the main D.V. Application. Section 23 of the Protection of Women from Domestic Violence Act, 2005 empowers the court to grant interim maintenance as one of the interim reliefs when the court deems it just and proper. The said section also lays down the fundamental conditions for grant of such interim relief as the application u/s 12 of the D.V. act that has been filed by the petitioner should prima facie disclose the commission of domestic violence and on such satisfaction interim relief can be granted on the basis of the affidavit filed by the petitioner. The principles governing the grant of interim maintenance as crystalised in the judgment of Hon'ble Supreme Court of India dated 04.11.2020 in *Rajnish Vs. Neha & Anr (Crl.A.No.730/2020)* is as follows:

i) The object of these provisions being to prevent vagrancy and destitution, the Magistrate has to find out as to what is required by the wife to maintain a standard of living which is neither luxurious nor penurious, but is modestly consistent with the status of the family. The needs and requirements of the wife for such moderate living can be fairly determined, only if her

separate income, also, is taken into account together with the earnings of the husband and his commitments.

ii) The object of maintenance proceedings is not to punish a person for his past neglect, but to prevent vagrancy and destitution of a deserted wife by providing her food, clothing and shelter by a speedy remedy.

iii) It is the sacrosanct duty of the husband to provide financial support to the wife and minor children, the husband is required to earn money even by physical labour, if he is able-bodied, and could not avoid his obligation, except on any legally permissible ground mentioned in the statute.

iv) The financial position of the parents of the applicant-wife, would not be material while determining the quantum of maintenance.

v) An order of interim maintenance is conditional on the circumstance that the wife or husband who makes a claim has no independent income, sufficient for her or his support. It is no answer to a claim of maintenance that the wife is educated and could support herself.

vi) the financial capacity of the husband, his actual income, reasonable expenses for his own maintenance, and dependant family members whom he is obliged to maintain under the law, liabilities if any, would be required to be taken into consideration, to arrive at the appropriate quantum of maintenance to be paid.

vii) The maintenance amount awarded must be reasonable and realistic, and avoid either of the two extremes i.e. maintenance awarded to the wife should neither be so extravagant which becomes oppressive and unbearable for the respondent, nor should it be so meagre that it drives the wife to penury. The sufficiency of the quantum has to be adjudged so that the wife is able to maintain herself with reasonable comfort.

viii) The living expenses of the child would include expenses for food, clothing, residence, medical expenses, education of children. Education expenses of the children must be normally borne by the father. If the wife is

working and earning sufficiently, the expenses may be shared proportionately between the parties.

ix) Maintenance be awarded from the date on which the application was made before the concerned Court. The right to claim maintenance must date back to the date of filing the application, since the period during which the maintenance proceedings remained pending is not within the control of the applicant.

x) The order of maintenance may be enforced as a money decree of a civil court as per the provisions of the CPC, more particularly Sections 51, 55, 58, 60 r/w. Order XXI.

05. With the aforesaid settled principles in mind, the facts of the case on hand must be analysed. The marriage between the parties is not in dispute. Both the parties are related to each other even before their marriage. The main application as well as the chief examination of the petitioner therein prima facie discloses the commission of domestic violence. The petitioner had given evidence on affidavit explaining the various kinds of abuses caused to her by the respondent such as beating, pledging of her gold jewels even without her knowledge, refusal to spend for even basic needs, demand for dowry & connected harassments, refusal to spend money even for basic needs, verbal abuse, wrongful attribution of extra-marital affair to her etc. The Hon'ble Delhi High Court in its judgment dated **09.09.2024** in ***X vs. The State (Govt. of NCT of Delhi) & Anr (Crl.Rev.P. 1083/2023, Crl.M.A. 27842/2023 & Crl.M.A. 27843/2023)*** has held to the effect that unlike Section 125 CrPC, maintenance under the DV Act is not linked to the inability of the wife to maintain herself. Similarly, the very same Hon'ble court in its judgment dated **07.01.2025** in ***X. vs Y. (Crl.M.C.No.4406/2019)*** has held that while the veracity of the case of the wife would be tested during the course of trial, interim relief can be granted merely upon the satisfaction that the application by the wife prima facie disclosed the commission of domestic violence.

06. Therefore, on holistic consideration of the pleadings, affidavits and documents available on records as well as considering the non-filing of the statement

of assets and liabilities as envisaged in *Rajnish Vs. Neha & Anr* (cited supra), in view of enabling the petitioners to lead a life of a reasonable comfort, this court deems it fit to order for payment of Interim Maintenance to the petitioner at the rate of **Rs.5,000/-** per month. The said maintenance is ordered to be paid from the date of filing of this interim petition. ie. from 24.07.2025 onwards.

In the result, this petition filed by Petitioners/Wife is partly allowed. Accordingly, the Respondent/Husband is hereby directed to pay interim maintenance at the rate of **Rs.5,000/- per month** which is liable to be **calculated from the date of filing of this petition for interim maintenance.** i.e from **24.07.2025** until disposal of the main D.V. application. It is also made clear that the due date for making the first instalment payment is **10.11.2025**. The arrears of interim maintenance liable to be paid from 24.07.2025 till date ie.10.10.2025 is ordered to be paid within **10.12.2025**.

Dictated to typist, typed by him, corrected and pronounced by me in the open Court on this 10th day of October 2025.

Judicial Magistrate
Sirkali

The Petitioner/Wife side oral witnesses/Documents: -Nil-

The Respondent/Husband side oral witnesses/Documents: -Nil-

Judicial Magistrate
Sirkali.