

Misc Case- 487/2022
CNR No. WBBD16-020112-2022
Present: Arpit Bhattacharya
Judicial Magistrate,
4th Court, Asansol

Order dt 13.04.2023

Today is fixed for passing necessary order.

Date is fixed for order on the petition of interim maintenance filed by petitioner/aggrieved lady.

Petitioner is represented through her Ld. Advocate and the respondents are present by filing hazira.

Already heard both sides.

Perused the materials on record and petition of interim maintenance. There is written objection filed by respondents against the interim maintenance petition and the respondents on 22.12.2022 has filed a written objection against the petition u/s.23 of P.W.D.V. Act.

Now petition for interim maintenance is taken up for disposal on consent of both sides. The petition has been filed for passing an order directing the respondents/opposite party to pay interim maintenance allowance to her at the rate of Rs.40,000/- per month for herself and Rs. 40,000/- to her minor daughter totaling to Rs. 80,000/- only per month to the complainant towards food, clothing, medicine, household expenses. Complainant has also prayed before this Court to pass protection order u/S 18 PWDV Act prohibiting the respondents from committing any act of domestic violence. Complainant has also prayed to pass residence order u/S 19 of PWDV Act thereby directing respondent no. 1 to arrange for an alternate accommodation as enjoyed by him in default to pay rent of Rs. 20,000/- only per month. Complainant has further prayed before this Court for giving necessary direction to the respondents to return the properties as mentioned in the Schedule.

Perused the materials on record.

From perusal of the petition for interim maintenance and the written objection filed by respondents on 22.12.2022, it appears that respondents admitted marital relation with petitioner/aggrieved lady but he has denied other material allegations brought against him along with other family members.

After going through the petition and on hearing the submission of both the sides, the admitted position arises that the respondent no. 1 and the petitioner are the legally married husband and wife and said marriage was duly solemnized on 13.02.2019 as per Hindu Rites and Customs and same was also registered on 30.04.2019.

There are so many allegations and counter allegations in the petition and the written objection, but it is not the right stage to enter into the merit and demerit of the case. At this stage, the primary issue is whether the petitioner has any source of income to maintain herself or not and whether the respondent no. 1 has sufficient income to provide maintenance or not. Petitioner has stated in her affidavit that she earns Rs. 32,000/- per month from her clinic and on the contrary, her monthly expenditure is around Rs. 65,000/-. Respondent no. 1 has explicitly stated in his affidavit that his monthly income is nil. It has also to be kept in mind that the minor daughter resides with the petitioner at this stage and it can safe be presumed that all her expenses are to be incurred by complainant/aggrieved lady herself but peculiar fact is that how can an individual spent more than his/her earning capacity and same is not clear to the conscience of this Court and for which a reasonable suspicion has cropped up in the mind of this Court thereby giving rise to accumulation of some dark clouds and same ought to have been dispelled by the complainant herself by adducing credible and believable evidences including documents in support of her contention, however, she has practically failed to convince this Court to that extent.

In view of the above discussion, findings and position of law this Court is rather convinced to come to a reasonable conclusion that when the aggrieved lady is earning Rs. 32,000/- per month, there is no urgency/necessity to pass any interim monetary relief at this stage in order to give some respite to complainant, otherwise it would be like a dole.

Hence, it is,

ORDERED,

that in view of the above discussion, findings and position of law this Court is rather convinced to come to a reasonable conclusion that when the aggrieved lady is earning Rs. 32,000/- per month, there is no urgency/necessity to pass any interim monetary relief at this stage in order to give some respite to complainant, otherwise it would be like a social dole.

Other relieves as sought for by the complainant shall be considered at a later stage after considering the evidences on record.

Let a copy of this order be given to the petitioner free of cost.

To **30.05.2023** for evidence of the 1st party.

Dictated and Corrected by me

Sd/-

**Judicial Magistrate 4th Court,
Asansol, Paschim Bardhaman**

Sd/-

**Judicial Magistrate 4th Court,
Asansol, Paschim Bardhaman**