

IN THE COURT OF JUDICIAL MAGISTRATE (FIRST CLASS),
52nd COURT, KURLA, MUMBAI.

C.C.NO. 5900272/DV/2023

ORDER BELOW APPLICATION (EXH.04).

Applicant has filed the present interim maintenance application against the respondents.

2. It is case of the applicant that she is legally wedded wife of the respondent No.1. Her marriage with the respondent No.1 was solemnized on 18.04.2018. There is a daughter namely Miss. Abhira Zainab born from the said wedlock. After marriage the respondent no. 1 was not bothered about the applicant attending his family as he was busy in his own world. The respondent no.1 would appear only in the nights to satisfy his physical needs. When the applicant tried to speak with the respondent no. 1, he used to pretend that the applicant is not around at all. The applicant was not allowed to make any call to respondent no. 1 during the day. In the beginning of five day only she was allowed to speak with her parents. Thereafter she was not allowed to talk to them. The respondent used to make her speak on the speaker. She was not even given her mobile phone though her father had gifted one to her on her wedding. The respondent no. 1 was constantly in touch with one of his female friend, apparently he has an affair with that girl. The applicant was never invited to eat food along with the family though cooking was done by her only. During the time of honeymoon the respondent no. 1 was constantly on touch with the said lady. She was well informed about the events happening between the applicant and respondent no.1. The said lady also proposed the respondent no.1 saying that 'if things don't work out well between

applicant and respondent no. 1 she is always available for respondent no. 1'. The respondent no. 1 and 3 used to be strict with her. After the marriage the respondent no. 1 left the applicant with his adopted parents and he gave only Rs. 3,000/- to the applicant. On 12 May it was confirmed that the applicant was pregnant after which the applicant was sent to her parents place for 15 days during which she didn't receive any emotional support from respondent no. 1. On the contrary the applicant was harassed with fights over calls and messages and respondent no. 1 abused her saying that the applicant is mentally ill and the applicant need to visit a psychiatrist. Due to the increasing fights the applicant returned to her in law's place. But the respondents were very rude to her and ill treated her.

3. The applicant further submitted that, on one evening the applicant was suffering from severe vomiting. But no one took the applicant to the doctor. The applicant was told by the respondent no. 3 and 4 to wait for the next day to visit the doctor. On visiting the doctor it was found that the applicant had lost around 5-6 kg in weeks time and becomes very weak after the behavior of the respondent become worst. The respondent no. 2 threaten to the applicant that the applicant will be sent to the applicant's parents house forever. The respondents send the applicant to her parental home to avoid the liability and responsibility of applicant's health during pregnancy. The applicant kept convincing the respondent no. 1 to call the applicant to Abu Dhabi to stay along with him. The respondent no. 1 called the applicant to Abu Dhabi for the period of two months and during this trip the respondent no. 3 also came to Abu Dhabi for last 15 days of the trip. When the applicant reached Abu Dhabi the respondent no.1 did not talk to the applicant for 10-12 days. The applicant was never informed about the

work place of the respondent no. 1 nor the respondent no. 1 gave any information about his work. The respondent no. 3 forced the applicant to sleep on the floor where all the footwear were kept. The respondent no. 3 is in the habit of chewing pan would spit on the face of the applicant. The respondent no. 4 used to commit physical and mental torture to the applicant in her matrimonial home. She used to instigate respondent no. 1 against the applicant and leveled false allegations against her. Therefore, the respondent no. 1 used to call and abuse her. The applicant is the puppet in the hands of respondent no. 1 who would anytime tell her to go to matrimonial home and anytime leave the matrimonial home and thereby the health of the applicant would be affected. The respondent no. 3 would never visited the applicant for that matter nor she came for the hospital visit. The respondents had no concern about the health of the applicant and her child after the delivery. The respondent wanted a male child but the applicant delivered a female child. Therefore, all the family members of the respondent boycott the applicant.

4. The applicant had to approach the Gharsansar Committee of the Khoja Shia at Dongri. But the respondent does not come. The respondents used their power and called the applicant to the community hall when her child was only twenty days old. The committee members ordered the applicant to sign apology letter and handover the same to the respondents with a surprise for the applicant. The applicant refused the same. The mother in law of the applicant used to interfere in the personal relation of the applicant and respondent no. 1. The incident took placed in mid September after which all the respondents blocked the applicant and her family over the phone and also over the social media due to which there was no active

contact with the respondents. The and her family members waited till 20.12.2018. After which the applicant filed a written request to the KSI Jamat to help the applicant for solving the problem.

5. The president of KSI Jamat called the applicant and his family members for meeting and promise the applicant that they will call for the delivery expenses from the respondent no.1. But applicant has not received the same. The respondent no. 1 did not turned up to see his daughter till date. The respondent no. 1 has not taken any sort of responsibility of her daughter and all the expenses were taken care by applicant's father. The applicant and respondent no. 1 had a meeting when the respondent no. 1 came to Mumbai and at that time the respondent no. 1 said that he requires a written apology from the applicant and her parents. The respondent denied to take the applicant to her parental home stating that she is a psycho and would burn herself and blame the respondents. Hence, the respondent demanded that if any incident took place with the applicant at her matrimonial home, then the applicant would be responsible for the same and respondents would not be liable for it.

6. The applicant did not agree to the terms and conditions of the respondents. The applicant was ready to reside with the respondents. Hence, some elder members of the Jamat tried to convince the respondent no. 1 to reside with the applicant. The respondent no. 1 also become agree for the same. But respondent no. 2 to 4 strongly opposed the same and meeting was dismissed without any conclusion. The respondent no. 1 left India within fifteen days of this meeting.

7. In the next meeting the applicant requested the Jamat to order the respondent no. 1 to provide maintenance for the applicant

and her daughter. But the respondent no. 1 denied to pay any maintenance. On 21.11.2021 the applicant received a call from members of Jamat for meeting with respondent no. 1. The respondent no. 1 also assured the applicant that, he would resolve the entire matter and send the applicant to her matrimonial home. The members of Jamat convince the respondents to reunite with the applicant. But the respondent no. 1 disagreed with the same. The respondent no. 3 started abusing the applicant and her mother. The respondent blaming the applicant's mother for everything in a disrespectful manner. The respondent no. 3 started abusing the applicant's mother. When the applicant tried to stop them, the respondent no. 1 to 3 come forward towards her and pushed the applicant. The respondent no. 1 is escaping from all the liabilities. The applicant's daughter is taking education in a school. The applicant requested the respondent no. 1 to provide a copy of his Aadhaar card in order to prepare the Aadhaar of her daughter. But the respondent no. 1 did not provide the same. The respondent no. 4 is residing in the applicant's vicinity and used to abuse the applicant. The respondent no. 1 got married in UAE and currently residing in Abud Dhabi with his second wife. The applicant and her daughter are not provided any kind of maintenance. The applicant is not doing any work. The respondent no. 2 to 4 constantly threatening the applicant to withdraw the petition. The stridhan of applicant is lying with respondent no. 1 and 3. The respondents have not returned her stridhan. The applicant is taking care of her child. The applicant is unable to maintain herself and her child. She has no support from the respondent. The respondent is working and having very good salary of 3,00,000/- per month. No one is depending upon him. The applicant is totally dependent upon the respondent. Therefore, the applicant has

filed the present application and demanded maintenance of Rs. 1,00,000/- per month for her and request Rs. 1,00,000/- per month for her daughter.

8. The respondent filed his say and strongly opposed the application. It is submitted that, the allegation leveled by the applicant in the application is false and bogus and only with a view to cause the harassment of the respondents. The applicant has suppressed the facts in her application. The applicant has filed the petition under section 125 of Cr.P.C. against the respondent no. 1 in the Family Court, Bandra. The main prayer in the petition is maintenance and divorce from the respondent no. 1. The respondent filed the reply and the petition is pending.

9. The applicant herself deserted the respondent no. 1 and spoiled her married life. The applicant is interested in divorce and dissolution of marriage. The marriage between the applicant and respondent no. 1 survived only for four months. Out of which the applicant stayed with respondent no. 1 for 54 days at Dubai and enjoyed the married life. This fact has been suppressed by the applicant. The applicant stayed with her in-laws at matrimonial home and most of the time she stayed at her parental home. The applicant left the matrimonial home at her own desire and all efforts of reconciliation were turned down by the applicant and her parents.

10. Since the birth of a child the respondent and his family members were not allowed to meet the said child. Their all requests were turned down by the applicant. The respondents never allowed to have visit and occasion to meet the said child.

11. The respondent no. 1 is not getting salary of Rs. 5,00,000/-

per month as claimed by the applicant without any proof. The respondent no. 1 is a shop supervisor and getting salary of Rs. 80,000/- per month. The respondent is residing in the Dubai where the cost of living is very high and Rs. 77,000/- per month for the expenses. The applicant is highly educated and having sufficient means to maintain herself. She is able to maintain herself and she is earning Rs. 50,000/- per month. The applicant is doing catering business along with her mother. The applicant deserted the respondent no. 1. Therefore, she is not entitled for any maintenance. The maintenance amount demanded by the applicant is improper and unjustified. The respondent is not liable to pay anything to the applicant. Hence, prayed for dismissal of application.

12. After considering documents and pleadings of both sides following points arise for my determination and I have recorded my findings on those points with reasons as follows.

Sr. No.	POINTS	FINDINGS
1	Does the applicant proves that the respondents caused domestic violence to her?	in the affirmative.
2	Do the applicant is entitled for protection order as prayed?	in the affirmative.
3	What order?	As per final order.

REASONS

AS TO POINT NO.1

13. Gone through entire record carefully. I also heard advocates at considerable length. Recitals of main application would show that there exist allegations against the respondents regarding physical and

mental torture and using abusive language. Entire main application is lacking specific dates of incidents of beating and using abusive language.

14. The allegations made against the respondents are regarding physical and mental torture. After perusing application and allegations leveled in it this Court has satisfied about the fact that the applicant was subjected to domestic violence at the hands of the respondent when she was residing with him.

15. The Ld. Counsel for respondent submitted that, the applicant herself left the company of respondent no. 1. Therefore, she is not entitled for any maintenance. The applicant has filed the case for maintenance against the respondent in Family Court, Bandra. Further, the present case is filed in 2023, but the respondent not appeared in person in the Court and put the any document on record to show that he is ready to reside with the applicant and the applicant is not ready to reside with the respondent no. 1. On the contrary, the respondent no. 1 himself residing in Dubai. Hence, it appears that there is no substance in the submission of Ld. Counsel for the respondent. Therefore, it appears that the allegation leveled by the the respondent is false and bogus and it amounts to cruelty upon the applicant by the hands of respondents. Hence, Point No.1 is answered in the affirmative.

AS TO POINT NO. 2

16. To the extent of Protection Order this Court finds that the respondent has appeared in the Court and documents are filed. The respondent has not paid anything to the applicant to fulfill his duty towards the applicant as husband. This shows that the respondent has not performed his duties as husband. In such circumstances, there exist

sufficient grounds to grant protection order as prayed. Hence, this Court answer Point No.2 in the affirmative.

AS TO POINT NO. 3.

17. While deciding the quantum of maintenance, this Court has carefully perused the Assets and liabilities Affidavit of the applicant which is at Exh.10. The applicant is educated up to Graduation. The applicant is stating that she is jobless and totally depends upon the respondent no. 1. The applicant is residing at her parental house.

18. The respondent no. 1 is residing in Dubai. The respondent No. 1 is educated up to graduation and doing job in Eliz Gold Trading LLC. The respondent No. 1 has mentioned his salary in the affidavit as Rs.80,000/- per month. The respondent no. 1 has filed on record the salary certificate dated 05.06.2024. As per salary certificate the gross salary of respondent no. 1 is 4,000/- Dirhams. The respondent no. 1 has not filed authenticated bank statement and documents of Income Tax Return. Therefore, it appears that, the respondent no. 1 is not showing his true income before the Court from all sources. The relations of the parties have tested extreme bitterness. The applicant is not working at the time of filing present application.

19. At this juncture taking into account income of the respondent and responsibility of the applicant, this Court thinks it fit that amount of Rs.30,000/- per month as an interim maintenance to the applicant and her daughter from the respondent no. 1 would be just and proper. Further, the respondent no. 1 has not paid any amount to the applicant from the date of filing of application. Hence, the application is required to be granted from the date of the application. Hence, in answer Point No.3 following order is passed :

ORDER

(1) The application is allowed as under :

- (a) Respondent No.1 Asad Ali S/o. Gulam Abbas Bhimani is directed to pay interim maintenance of Rs.30,000/- (Rupees Thirty Thousand Only) per month to the applicant and her daughter, from the date of the application till final disposal of main application or till further order.
- (b) Other reliefs shall be heard alongwith main application or on application by the applicant, if situation warrants.
- (c) Both parties are directed to take note of the order and comply.
- (d) Both parties are directed to ensure speedy disposal of the main application at the earliest.

(2) Copies of the order be provided free of cost to both parties.

Mumbai
Date : 17.08.2026

(D. S. Sharma)
Judicial Magistrate (First Class),
52nd Court, Kurla, Mumbai

Order directly dictated on : 17.08.2026.
Order signed on : 17.08.2026.