

In the Court of Judicial Magistrate, 1st Court, Uluberia**Present: Akash Bose****MC - 268/2023****TR-735/2023****CNR No- WBHW120021882023****Ex Parte Interim Order Dated 10.06.2025**

Today is fixed for hearing of petition filed by the aggrieved person u/s. 23 of PWDV Act.

Aggrieved person is present by filing hazira.

Affidavit of assets and liabilities is filed on behalf of the aggrieved.

Hd. Ld Advocate for the aggrieved person.

Considered.

This is an application under section 23(2) of the Protection of Women from Domestic Violence Act. It is a beneficial legislation and percolation of its relives is the motto. Speedy disposal of the application is also the object of this Act.

Prima facie, the application of the aggrieved person in the form of Affidavit which discloses the Act of Domestic Violence committed upon the aggrieved person.

This is an interim stage and it is needless to say that at this moment this Court has no other alternative but to rely upon contentions of the aggrieved lady supported by Affidavit and the documents filed by her, as it comes now in the hands of this Court.

The aggrieved person Jhuma Das has stated that she is legally married wife of Subho Das and out of their wedlock, one male child was born to them. At the time of marriage, gold bangles, one pair gold bouti, one finger ring for groom, one bhoori gold chain, 1.5 bhoori gold chain for bride, utensils, two trolley bags, apparel were given to the family of the OP and after marriage, the OP no 2 kept all the marriage articles with her. The marriage was registered on 14.06.2013 and the social marriage was solemnised on 06.05.2013. At the time of registry as per demand of OP no 1, the father of the petitioner provide registry cost of Rs 10,000/- to him. During wedlock, one male child was born but the OP no 1 started to torture the petitioner no 2 in the state of intoxication and OP no 2 and 3 also were the accomplice in the said torture. The family of the OP along with OP no 1 started demanding Rs 1,00,000/- cash from petitioner no 2 but the petitioner no 2 failed to fulfill the demand and the other side started torturing upon herself. They further called the father of petitioner no 2 to take care of her and provide medical expenditure of petitioner no 2 at the time of pregnancy. At the time of four months of pregnancy, the OP no 1 did not agree to send the petitioner no 2 in her matrimonial house and demanded Rs 2,00,000/- cash from her father. The petitioner and his family in search of peace silently adjusted against all the torture. That, on 29.10.2014, the petitioner got delivered one male child and all the expenditure of the delivery was carried away by her father. After delivery of child, when the petitioner no 2 went back to her matrimonial house she was again tortured by the Ops for demand of dowry and the further was subjected to physical and mental assault. In the year of 2022, one day the OP no 1 and his family driven the both petitioners out of their matrimonial house in single attire and having no other alternative way, the petitioner no 2 took shelter in her father's house with petitioner no 1.

The petitioner no 2 alleged that the OP no 1 is presently working as a Group D work in Food and Supply Dept and has monthly salary of Rs 40,000/- to Rs 42,000/- per month along with has landed properties and two storied pucca building and from there, he is earning Rs 3,00,000/- per year. Apart from this, OP no 3 was a retired nurse and a pension holder and on the other hand, petitioner no 2 has no income of her own and petitioner no 1 is studying in class III and after the said incident the OP no 1 never paid any maintenance or took any information of the petitioners. In this circumstances, the petitioner no 2 prayed Rs 25,000/- for herself and Rs 15,000/- for the petitioner no 1 total Rs 40,000/- per month along with Rs 30,000/- litigation cost.

Heard and Considered.

Perusing the application, affidavit and order sheet, I found that after receiving proper summon, the OP did not take any step and vide order dated 16.11.2024, OP has got proceeded as exparte in the present case.

Upon perusal of the application, it is hereby found that OP has not paid any maintenance towards the petitioner no 2 since long time. It is further admitted by

the petitioner no 2 that she is the legally wedded wife of the OP no 1 and during wedlock, the child was also admitted. As the OP no 1 did not move or has not given any written objection after repeated chance, thus the contention of the petitioner will be considered as conclusive as temporary basis. Interim order is not improper in the matter of giving interim maintenance. So, considering the above stated facts and circumstances, I am inclined to hold that this is a fit case for passing an ex-parte order of pass interim maintenance against the petitioner no 2 but at this stage without the evidence residence order cannot be passed.

Having considered the submissions and on careful scrutiny of the record, it appears that the marriage in between the parties is not disputed. Presently, the aggrieved person is residing with her parents with minor child. It is no doubt prima facie that the parties are residing separately. It also appears that after marriage, the aggrieved person and the respondent no.1 started to lead their conjugal life at her matrimonial home in a sharehold house with other respondents as admitted by petitioners.

At this stage, without delving deep into the allegations, I am of the opinion that it is the incumbent upon the respondent no.1 to maintain his wife and children to fulfill her basic needs as per his status. The respondent 1 by not attending before this court, cannot escape his liability, save and except as provided in the provision which is yet to be proved. There is nothing on record to help me ascertain the other source of income of the respondent no.1. Again, whether any domestic violence has been caused upon the aggrieved person or not, is a matter of trial. But, the purpose of giving interim maintenance during pendency of the proceeding is to save the life of the aggrieved person.

Considering the material available on record and need of the hour and present status of the parties, I am of the opinion that the aggrieved person is entitled to get interim maintenance till the finality of this case. Thus, considering the status, position and present market price, I am inclined to pass an order in favour of the aggrieved person for allowing maintenance for their livelihood. Regarding the prayer of litigation cost by the aggrieved person in my view it shall be considered at the time of trial.

Hence, it is

ORDERED

that the petition u/S 23 of D.V. Act is hereby allowed on contest in part and the same is accordingly disposed of without any order as to costs.

The respondent no.1 is hereby directed to provide maintenance of Rs. 3,000/- per month to the petitioner no 2 and Rs 2,000/- to the petitioner no 1 total amounting Rs 5,000/- per month as interim maintenance inclusively within 10th day of each calendar month from the date of filing of this case, i/d the aggrieved person is at liberty to put the order in execution.

Let a copy of this order be given aggrieved person free of costs.

Fix 21.08.2025 for evidence.

D/C by me

JM 1st Court Uluberia

JM 1st Court Uluberia