

Misc. Case 06/2021
CNR No. WBMD04-0002212021

Present : Sumana Garain (WB 01068)
A.C.J.M, Berhampore, Murshidabad

Date: 07.02.2022

The case record is put up today.

The complainant has filed an application u/s 23 along with affidavit and an affidavit of assets and liabilities along with Vokatnama.

Ld. Advocate for the complainant moved the interim petition for an ex-parte interim order in favour of the complainant.

Heard Ld. Advocate.

The petition u/s 23 PWDV Act is taken up for passing ex parte order.

The complainant files the petition for interim order along with affidavit as prescribed u/s 23 (2) of PWDV Act for monetary relief to the tune of Rs.50,000/- per month for herself and also interim order to arrange of place of residence for the complainant and protection order.

Perused the petition, the documents filed, the domestic incident report and other materials on the record and also the Domestic Incident Report filed by the Protection Officer.

The case of the petitioner in brief is that the aggrieved party/complainant is the wife of respondent no.1 and other respondents are her in-law members. The complainant was married to the respondent no.1 on 21.01.2018 as per Muslim Sariate. After marriage she went to her matrimonial home . The respondents used to torture the complainant mentally and physically . The respondent no.1 is a doctor (surgeon) by profession and he is attached to Balurghat District Hospital, Dakshin Dinajpur. Soon after the marriage the complainant came to know that respondent No. 1 is a divorcee having two children. During the conjugal life the complainant became pregnant and then on 16.03.2020 the respondent No. 2 in consultation with respondent No. 1 caused abortion of the 3 months old fetus of the complainant by giving her medicine as prescribed by respondent No. 1 over phone. As a result the complainant became very ill and was taken to Spandan Hospital. On 17.03.2020 respondent No. 1 came to the Spandan Hospital to take the complainant to home after being discharged from the hospital. On the same day the respondent No. 1 tried to kill the complainant at the midnight by strangulating her . However, her mother and nephew rescued her. On 19.03.2020 the respondent No. 1 and his family members took all the Stridhan of the complainant and forced her to leave for shared household/matrimonial home. Since then the complainant has been living at her parental home. She has

lodged an F.I.R. against the respondent before the Saktipur P.S. which is pending. The respondent No. 1 is a doctor attached with Balurghat District Hospital and he draws salary of Rs. 1,38,154/- per month and also attached with 3 nursing homes and earns more than 3 lakhs per month. Apart from that the respondent No. 1 is the owner of several other properties including two pakka houses and two flats one in Kolkata and another in Balurghat and he is also owner of a two wheeler and a four wheeler. But the respondent No. 1 has not been paying any maintenance to the complainant. On the other hand the complainant has no income of her own .

The complainant has prayed for interim order on the ground of domestic violence in the nature of physical and mental abuse.

The protection officer in her DIR supported the case of the complainant and the DIR disclosed a prima facie case of domestic violence. As the respondent no.1 is the husband of the complainant and other respondents are her in-law members of the complainant, it can be said that they have domestic relationship.

The petitioners prayed for interim order u/s 20 of the Act for monetary relief of Rs. 50,000/- per month and residence order from respondent no.1.

On careful perusal it appears that the complainant has been residing at her paternal home. It further appears that the complainant has no other income of her own. Therefore, I find urgency to pass an ex parte interim order in respect of maintenance. Otherwise , the very purpose of section 23 of PWDV Act will be defeated by delay caused in course of trial.

The complainant stated that the respondent no.1 draws salary of Rs. 1,38,154/- per month. The complainant has filed a document in order to show the income of the petitioner from where it is found that the Grade pay and Net Pay of the respondent No. 1 as on 1st January, 2021 or Rs. 1,38,154/- and 1,17,874/- respectively. Therefore, I am inclined to allow the prayer of interim order u/s 20 PWDV Act of the complainant.

Considering the facts and circumstances I am inclined to allow the petition u/s 23(2) PWDV Act in part and considering the present economic condition and rising price of daily commodities, if the respondent no.1 be directed to pay to the complainant Rs.25,000/- per month as interim monetary relief none will be prejudiced.

Hence, it is

ORDERED

That the application for interim order u/s 23(2) of PWDV Act is allowed in part ex parte against

respondent no. 1 without any cost.

The complainant is entitled to get a sum of Rs. 25,000/- per month from the respondent no.1 as interim monetary relief u/s 20 of the Protection of Woman from Domestic Violence Act 2005 from the date of filing of this case.

The respondent no.1 Dr. Hasan Subid is directed to pay Rs. 25,000/- per month to complainant, from date of filing of this case, month by month by 7th day of each succeeding English calendar month till disposal of the interim relief petition .

Let a copy of this order be supplied to the parties free of cost as per section 24 of the Protection of Woman from Domestic Violence Act 2005.

To 04.05.2022 for evidence.

Dictated and corrected by me

Addl. Chief Judicial Magistrate, Berhampore.