

**IN THE COURT OF JUDICIAL MAGISTRATE
Tehatta, Nadia.**

Present : **Bedashruti Mallik, WBJS**
Misc. Crl 02 of 2023

Order Dated: 20-04-2023

Today is fixed for order.

Hazira filed by both the parties

In the instant case, the respondent had filed his affidavit of assets and liabilities and had admitted that his current net pay is about 15,000/- per month. He has also filed copies of his payslip for the month of December 2022, January 2023 and February 2023 in support of his contention which shows his current net salary to be approximately 17,000/-. He also submits that he has to repay some loans that he has taken for construction of his house, treatment of respondent no. 1 and for repaying some of his personal debts. After deduction of the said loans, respondent no. 1 receives only Rs. 3500/- per month in his bank account. He has filed copies of his bank statement in support of his contention.

Be it mentioned here that the legislative intent of enacting the Protection of Women from Domestic Violence Act, 2005 has been meticulously discussed by the Hon'ble Apex Court in the case **Indra Sarma v. V.K.V.Sarma [AIR 2014 SC 309]** wherein it was stated that the reason for the legislation to enact such an Act is to provide protection of rights of women who are victims of violence of any type occurring in the family. This Act safeguards women from facing violence within the four walls of their home. Further, **S. 20, DV Act** also empowers the Court to direct the respondent to pay monetary relief to meet the expenses incurred and the losses suffered by the aggrieved person and any child of the aggrieved person as a result of the domestic violence and such relief may include the loss of earnings of the victim, medical expenses, the loss caused due to damage or destruction of any property, the maintenance of the aggrieved person and her children. Therefore, making a submission that most of the salary of the respondent is spent for repaying the loans taken by him for his personal purposes and for treatment of his family members does not absolve him of his liability towards his wife and child.

However, the petitioner had contended that her husband is drawing a salary of Rs. 25000/- per month and also earns a total of 40,000-50,000/- per month. On the other hand the respondent has admitted of drawing a net salary of Rs. 16,000/ per month and filed his current payslips in support of his contention. **S.25(2), PWDV Act** states that if the Magistrate, on receipt of an application from the aggrieved person or the respondent, is satisfied that there is a change in the circumstances requiring alteration, modification or revocation of any order made under this Act, he may, for reasons to be recorded in writing pass such order, as he may deem appropriate.

Therefore taking into account the subsequent events, the factum of the current pay of respondent no. 1, and the contentions of both parties, I think the petition u/s. 25(2), PWDV Act of respondent no. 1 should be allowed on contest.

Hence,

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That the petition filed by the respondent u/s. 25(2), PWDV Act, 2005 is allowed on contest. The respondent no. 1 is directed to pay a monthly allowance of Rs. 3000/- for the petitioner and Rs. 2,000/- for her child, ie, a total of **Rs. 5,000/-(five thousand) per month** instead of Rs. 6,000/- per month from the date of passing of this order.

Petitioner to file requisites at once.

Sd/- B. Mallik
Judicial Magistrate
Tehatta, Nadia.