

**Complaint Case No. 643/2024**

**Ad interim matter under Section 23(1) of PWDV Act**

Order Dated: 02/08/2024

Today is fixed for passing of order in respect of the application U/s.23(1) of the PWDV Act dt.05.02.24.

The report is received today. Perused the report. Let it be kept with the record for future reference.

The Ld. Advocate for the complainant/aggrieved person files one application praying for ad interim residential relief for the complainant namely, Sucheta Chandra nee Talukdar, u/s 23(1) of the Protection of Women from Domestic Violence Act of 2005.

The petitioner by filing this interim maintenance petition has claimed maintenance for herself being her husband. The case of the complainant in brief is that the complainant/aggrieved person is a legally married wife of Manideep Chandra. The marriage between complainant/ aggrieved person and the OP took place on 18/07/2001 according to Hindu Rites. At the time of marriage the parents of the complainant gave valuable articles as per the demand of her husband and his family members. After their marriage the complainant and the her husband started living their conjugal life at Tata Eden Court, Tower C, Flat No.17A, New Town, Action Area-II, Kolkata-56 and out of the wedlock one son was born 25/05/2003. The complainant further contended that a few days after her marriage she had been subjected to physical and mental torture by the OP on various pretexts. It was further alleged that the OP used to neglect the aggrieved person of her general amenities and also had grown an illicit relationship with another woman. The complainant/ aggrieved person stated that since after death of her father, she was compelled to stay separate from her husband without any maintenance from him. The aggrieved party submitted that the OP is a lecturer in a college with an income of about 2,50,000/- per month. As she has been ousted from the OP's house and now under financial stringency at her father's house at DA-174, Sector-I, Salt Lake, Kol-64 along with her son, she has prayed for financial maintenance for herself and her son, educational expenses of her son along with protection order and residential order. In support of her contentions, the aggrieved party has submitted some documents along with affidavit of assets and liabilities.

The OP Dr. Manidip Chandra has made his appearance by filing W.O categorically denying and disputing all the allegations labelled against him by the aggrieved lady. In his W.O the OP, did not raise any objection against the marital status between the parties, however, he stated that from the very inception the petitioner never intended to lead a normal conjugal life as she used to frequently leave the OP's house for her paternal home without any reason. The OP further contended that the aggrieved party used to create pressure upon the OP to have a separate accommodation and also forced to him to get their only son Debdeep in Bhavan's Gangabux, Kanoria Vidyamandir, Salt Lake.

Regarding the incident dt. 22.08.23 the OP contended that the allegations were totally false. On the contrary he was forced to leave the flat after being severely assaulted by the petitioner. The OP further contended that the petitioner used to be disrespectful towards him after few days of the marriage. The petitioner used to express resentment regarding the tie between the OP and his family members. The OP contended that the petitioner was not happy with their relationship. The OP further contended that due to rude and humiliating behaviour of the petitioner he had suffered a lot even in his profession. After the birth of their male child she started blackmailing him to the effect that if he would not stop visiting his ailing parents she would leave his home. In the W.O the OP further contended that at the behest of the petitioner he took separate accommodation with the hope of peace in home, but in vain.

Regarding his income the OP disclosed that he receives Rs.1,93,728/- as net salary per month and also has some liabilities. The OP in his W.O has agreed to pay Rs.20,000/- per month to the petitioner in lieu of shared flat. He prayed for dismissal of the instant application.

I would further like to mention here that the OP has not submitted his affidavit of assets and liabilities in support of his case.

The report of the District Protection Officer corroborates the complainant's allegation of Domestic Violence against the respondents.

The report of the District Protection Officer corroborates the complainant's allegation of Domestic Violence against the respondents.

On the very inception of delving into the matter I would like to point out that in series of decisions the Hon'ble Court has decided that s. 23 of the PWDV Act enables the Court to pass ex parte order on the basis of affidavit filed by the aggrieved party.

In another case ( **Shambhu Prasad Singh vs. Manjari** ) reported on 7<sup>th</sup> May, 2012 in Indian Kanoon and in **Manoj Anand vs State of UP 2012(77) ACC(All), Smt. Suresh vs. Jaibir 2009(78) AIC (P & H)** , the Hon'ble Courts have held that a conjoint reading of ss. 20(1/d), 23(1) and 23 (1) & 23(2) of the PWDV Act will make it abundantly clear that the Court is not only empowered to grant monetary relief while finally disposing of an application u/s 12 (1) of the same Act, but also empowered to grant maintenance to the aggrieved person as an interim measure during pendency of the application by way of passing an interim order.

The same ratio has been observed by the Hon'ble Apex Court in Criminal Appeal no. 2009/2013 in **Indar Sarma vs. VKV Sarma**.

On perusing the materials on record, by the order dt. 30.04.24 the petitioner has already been granted ad interim relief U/s.23(2) of PWDV ensuring her protection and shelter right.

Under the exigency situation and upon hearing the Ld Counsel for the aggrieved party and considering the materials on record, I think the instant prayer of the aggrieved party for financial maintenance should also be allowed.

Hence, it is

#### ORDERED

that the application of the petitioner Sucheta Chandra nee Talukdar dt. 05.02.24 U/s.23(1) of the PWDV Act be and the same is hereby allowed in part.

The petitioner does get an interim order towards monthly maintenance allowance to the tune of ₹ 80,000/- per month from the O.P./respondent, from the date of filing of the instant application.

The O.P./respondent is directed to make payment of Rs.80000/- per month to the petitioner towards maintenance allowance within the every 10<sup>th</sup> day of every succeeding English month, failing which the petitioner would be at liberty to execute the order so passed.

This order will take effect for date of filing of the instant application, i.e. 05.02.24.

The OP is also hereby directed to clear all the cost of maintenance outstanding towards the residential flat wherein the petitioner is now residing by the next date i/d to n/o.

Let the copy of this order be handed over to the petitioner free of cost.

To 12/12/2024 for evidence of the petitioner.

ACJM/Bidhannagar/24 Parganas(N).