

Misc Case No.23/22
CIS no:- 24/2022
CNR No.- WBPU06-000112-2022
J.O. Code: WB01313

Order dated 05-12-2025 :-

Today is fixed for passing order.

Both parties are present by filing hazira.

On the previous day this Court heard the petition u/s 19 of the PWDV Act filed by the aggrieved person as well as the petition u/s 25(2) of the said Act filed by the respondent no.1.

Now the case record is taken up for passing order.

It is the case of the aggrieved person that her husband is not providing any monetary relief to her willfully and a huge amount of arrear is pending regarding the interim relief passed by this Court. The aggrieved person is completely unable to maintain herself and is in a hand to mouth condition. The respondent no.1 filed a case for restitution of conjugal rights before the Family Court, Jamshedpur wherein he has mentioned that he is willing to resume cohabitation with the aggrieved person at the shared house-hold situated at H No. 294, Road No.7, Sonari West Layout, P.S Sonari Town, Jamshedpur, District-Singhbhum East. The aggrieved person is staying with her widow mother whereas in her shared house-hold, there are 10 rooms, 2 kitchens, 6 bathrooms and garage. The aggrieved person has been debarred by all the respondents from using the shared house-hold from where she was forcefully driven out. In such facts and circumstances, the aggrieved person prayed for a direction upon the respondents to refrain themselves from repeating any act of

domestic violence, from making any sort of communication with her and restraining the respondents from dispossessing her or disturbing her possession in the shared house-hold.

In support of her contentions, she filed several photographs, summons along with copy of plaint in Mat Suit No. 946/23 and certified copy of all the documents and order sheets in connection with that case.

The respondent no.1 objected to the petition u/s 19 of the Act by contending that the conduct of the aggrieved person is such that her presence in the shared house-hold would severely deteriorate the health condition of the senior citizens present therein. The aggrieved person herself assaulted her husband for which he was treated and a police case was initiated at Jamshedpur. This Court already allowed the interim maintenance and the husband is paying the said amount though subsequently he has lost the job. No allegation of domestic violence upon the petitioner has been proved yet and she has left her matrimonial home voluntarily. The respondent no.1 is always willing to maintain his wife and he has also filed a suit for restitution of conjugal rights for that reason. The prayer of the aggrieved person is self contradictory as in one hand she has prayed for refraining the respondents from contacting her and in the other hand she has prayed for residence order. Moreover, the shared household belongs to the parents of the respondent no.1 and neither their son nor the daughter in law has any right to reside therein without their permission. In such facts and circumstances, he prayed for rejection of the instant petition.

In respect of the petition u/s 25(2) of the Act, it is the contention of the respondent no.1 that this Court allowed interim maintenance of Rs.8000/- per month vide Order dated 08/12/22 and he is paying the said amount as per the direction of this Court. The respondent no.1 was an employee of a Private Limited Company in Bangalore but due to his disturbance in the matrimonial life, he lost his job and had to resign in July, 2023. At present he is unemployed and there is a change in the circumstances requiring alteration / modification of such order. Moreover, there is also some discrepancy in the affidavit of assets and liabilities of the aggrieved person for which reason a proceeding u/s 340 of Cr.P.C should be initiated against her. Accordingly, he prayed for alteration / modification of the order dated 08/12/22 and initiation of proceeding u/s 340 of Cr.P.C against the aggrieved person.

In support of his contentions, he filed certificate dated 15/10/23, several written complaints, notarial declaration dated 28/10/21 along with some other documents and summary of case laws.

In respect of the instant petition, the aggrieved person filed written objection stating that the respondent no.1 is not paying maintenance to her regularly and huge amount of arrear is also pending. The respondent no.1 suppressed his actual income at the time of hearing and he did not prefer any appeal challenging the Order dated 08/12/22. The aggrieved person has no source of income and she is passing her days in great hardship. Moreover, the respondent no.1 is an able bodied person and he is liable to maintain his wife. The instant petition has been filed only to avoid the financial

responsibility. The trial of the case has already begun and the respondent no.1 has every liberty to prove his case by adducing evidence. Accordingly, she prayed for rejection of the instant petition.

By virtue of this order, this Court is dealing with two petitions, one u/s 19 of the PWDV Act filed by the aggrieved person and the other u/s 25(2) of the Act filed by the respondent no.1. Let me discuss the merits of the respective petitions one by one.

Throughout his argument, the Ld. Advocate for the aggrieved person stressed upon passing residential order in favour of his client at her shared house-hold. But to my utter surprise, there is no such specific prayer in the petition itself. The prayer portion of the petition discloses that the aggrieved person has prayed for directing the respondents to refrain themselves from repeating any act of domestic violence, from making any sort of communication with her and restraining the respondents from dispossessing her or disturbing her possession in the shared house-hold. None of such prayers include a specific residential order to be passed in her favour by putting her inside her matrimonial house as admittedly she is staying at her paternal house at present.

Apart from that, all the allegations of domestic violence levelled by the aggrieved person is yet to be proved as the trial of the instant case is going on. Such residence order can always be passed in her favour at the time of final adjudication of the case, subject to proof. But from the factual scenario, I do not find any justification or urgency for passing any interim residential order in her favour at this stage.

So far as the petition u/s 25(2) of the Act, it appears that the respondent no.1 tried to portray himself as an unemployed youth who has lost his job. But the document filed by him in this regard reflects that he resigned from the job and subsequently got released. Resignation from the job is a voluntary act which is distinct from loss of the job itself. Therefore, on the basis of such document it cannot be concluded that there is a major change in the circumstances justifying modification of the order dated 08/12/22.

Apart from that, the respondent no.1 being an able bodied person and capable of earning, is bound to maintain his wife and loss of job can never stand in the way of providing maintenance to her.

Moreover, the trial of the case is still pending and the respondent no.1 has every liberty to prove his loss of job by adducing cogent evidence. There is also no proof that the aggrieved person has suppressed material facts in her affidavit of assets and liabilities for which the proceeding u/s 340 of Cr.P.C should be initiated against her.

In view of the above deliberation, I do not find merit in both the petitions filed by the respective parties.

Hence, it is

ORDERED

that the petitions u/s 19 and 25(2) of the PWDV Act filed by the aggrieved person and the respondent no.1 respectively are considered and rejected on contest without any order as to costs.

The residence order in favour of the aggrieved person would be considered at the time of final adjudication of this case.

The respondent no.1 shall continue making payment of the monetary relief to the aggrieved person as per Order dated 08/12/22 and there shall be no modification / alteration of the said order at this stage.

Fix 30-01-2026 for further evidence.

Dictated & Corrected

by me.

Sd/-

ACJM- 2nd Court
Raghunathpur, Purulia

Sd/-

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Raghunathpur, Purulia