

PWDV Case no.01/2018

Shobha -Vs- Jakir

CNR NO. MHBU18-000077-2018

ORDER BELOW EXHIBIT NO. 06.

(Passed on 15.06.2018)

1 This is an application for interim maintenance under section 23 of The Protection of Women from Domestic Violence Act, 2005 (hereinafter referred to as 'DV Act') .

2 In sum and substance, it is applicant's case that she is legally wedded wife of non-applicant Jakir Saldar Tadvī and that she has been subjected to domestic violence at his hands which has led her to institute the present proceeding and the present application, thereby seeking interim maintenance for herself.

3 It is the defence of the non-applicant that, although she is legally wedded wife, she has left her matrimonial home on her own accord and therefore, she is not entitled to the relief of interim maintenance as well as the main reliefs. According to him since beginning the applicant was not having bonafide desire to cohabit with the non-applicant and she has been living adulterous life. Therefore she has refused to cohabit with the non-applicant. Therefore, the applicant was misbehaving with non-applicant and in-laws. She has deserted him The non-applicant has also contended that, he does not have any permanent source of income. Hence, he has prayed for rejection.

4 I have heard both sides and have also gone through the present application, say filed thereon and the record. In view of the controversy the crucial question that has cropped into the present matter for the adjudication of the present application is as to whether the present applicant prima-facie appears to have been subjected to domestic violence and whether she is entitled to the relief of interim maintenance.

5 At the very outset of the reasoning, it is apposite to mention here that, although the non-applicant has contended that the applicant has left her matrimonial home on her own accord and that she has been living adulterous life, he has not placed on record any prima-facie material to substantiate the same. On perusal of the record atleast it can be undisputedly seen that, the non-applicant has admitted his relations with the applicant. It can also be seen that, he has not made any provision for the maintenance of the applicant till today. On the contrary, the non-applicant has specifically admitted that, she is legally wedded wife and the said wedlock is intact. Moreover, although he has contended that, she has source of income, he has not placed on record any prima-facie material to show her source of income. Therefore, it prima-facie appears that, she is not able to maintain herself. The non-applicant has himself contended in his written say that he ekes out his livelihood by labour work. Therefore, he is legally bound to maintain her. It is a matter of common sense that, no woman is likely to make allegations of domestic violence against her husband for no reasons, especially when she is unable to maintain herself. Moreover, her averments have acquired prima-facie strength and support from the positive domestic incident report filed by the Protection Officer and documents placed on record.

6 According to the applicant, the non-applicant has agricultural land. She has not placed on record any 7/12 Extract to substantiate the same. The non-applicant has denied in his say that he has any agricultural land. However, on perusal of the record it can be seen that, admittedly he is 25 years old. It is not his defence in his written say that due to any physical or mental illness he is unable to maintain applicant. Therefore, it can be seen that the non-applicant, being of young age and able bodied, can eke out his livelihood and maintain his wife. On perusal of the record it is seen that the non-applicant has not made any provision for the maintenance of the applicant from the date of filing of the present application till today. This fact is itself self-sufficient and self-evident that the non-applicant has evaded his responsibility of maintenance of his wife. Therefore, for all the aforesaid reasons, I have arrived at the finding that, the applicant prima-facie appears to have been subjected to domestic violence and therefore she is entitled to claim interim maintenance.

7 So far as quantum of maintenance amount is concerned, it can be seen that the applicant has not given particulars of her monthly expenses. Therefore, the amount of Rs. 5,000/- claimed by her as interim maintenance appears to be exorbitant and unreasonable in view of the approximate income of the non-applicant. Therefore, considering the approximate income of the non-applicant, standard of living of both parties, number of and various needs of dependents on the non-applicant, needs of applicant, the likely expenses that may be required for the livelihood of a person at a place like village Alewadi or Rasulpur, prices of essential commodities and hike therein, I have arrived at the finding that the amount of Rs. 2000/- only (in words Rupees Two

Thousand only) requires to be granted as interim maintenance to the applicant. Hence, I proceed to pass the following order.

ORDER

- 1)- The present application is partly allowed.
- 2)- The non-applicant Jakir Saldar Tadvī is directed to pay an amount of Rs. 2000/- (In words, Rupees Two Thousand only) per month to the applicant Mrs. Shobha Jakir Tadvī as interim maintenance, from the date of present application, till final disposal of the present proceeding.
- 3)- Copy of this order be given to both parties free of costs.
- 4)- Dictated and pronounced in open court.

Sd/-

(S.R. Nikam)

Judicial Magistrate, F.C., Sangrampur.

Dated : 15.06.2018.

Certificate :

I affirm that the contents of this PDF file are same words for words; as per original order.

Name of Steno : J. B. Ballal.

Name of Court : CJJD & JMFC Sangrampur.

Upload on date : 25.06.2018.