

01-04-2024  
Present: Complainant along with Ld. Counsel.  
R-1 with Ld. counsel.

Ld. counsel for R-1 filed written arguments. Copy supplied.

Further arguments heard.  
Put up for order at 4.00p.m.

01-04-2024  
At 4.00p.m.

Present: None.

By way of this order, I shall decide an application u/s 23 DV Act for grant of interim maintenance to the complainant.

At the very outset, it is clarified the present order shall not have any bearing of the merits of the case and shall not be read as final adjudication of rights of the parties.

Complainant shall be entitled to relief under the present application only if she establishes herself to be in domestic relationship with respondent no.1 and that there has been commission of domestic violence upon complainant during the subsistence of domestic relationship with respondent no.1.

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Respondent no.1 has admitted being the husband of the complainant, thus, domestic relationship between the parties is admitted. Complainant has made several allegations of torture, abuse and harassment, while she was living with respondent no.1 in her complaint. At the same time, R1 has also leveled various allegations against the complainant. Although, the said allegations cannot be decided without trial, but the allegations leveled by the complainant are *prima facie* sufficient to show commission of domestic violence during subsistence of domestic relationship. Thus, the complainant is entitled to seek interim relief under the Act.

The present application has been filed by complainant seeking interim maintenance for herself and her minor child @ Rs. 1,00,000/- per month.

Both the parties have filed their respective income affidavits. Complainant has stated in her income affidavit that she is a M.COM post graduate and she is residing at her parental house. Expenses on her own account and on account of minor infant child have been claimed to be Rs. 80,000/- per month. She claims to be unemployed. She further claims that R1 is earning about Rs. 2 lacs per month as he is working as a Senior Manager, Axis Bank. She claims that the R1 has no other liability except to maintain her and the minor child.

On the other hand, Respondent No.1 has stated that he is a graduate and is residing at his parental house. He claims that he is working as a Relationship Manager, Axis Bank and is

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earning about Rs. 65,000/- per month. Expenses on his own account have been claimed to be Rs. 35,000/- per month. He further claims that his mother is dependent on him and he incurs an expense of Rs. 25,000/- per month on her account as she is suffering from various ailments. He claims that he had taken personal loan of Rs. 4.85 Lacs for the course fee of complainant and he is paying EMI of Rs. 14,730/- per month. He claims that the complainant is post graduate and CTET qualified and is a lecturer in Delhi University.

Both the parties have also filed their respective bank account statements. Same have been perused.

R1 being husband of complainant and the father of the minor child, he is responsible to provide for them. It is pertinent to mention that the complainant has submitted that she is not working.

It has been recently held in judgment titled as 'Rajnish Verma Vs. Neha' Crl. Appeal No. 730/2020 decided on 04.11.2020 of the Hon'ble Supreme Court of India that the following factors have to be considered for determining the quantum of maintenance:

1. Status of parties.
2. Reasonable needs of the wife and dependent children.
3. Whether the applicant is educated and professionally qualified.
4. Whether the applicant has any independent source of income.
5. When the applicant is earning whether the income is sufficient to enable the applicant to maintain the same standard of living as she was accustomed to in her matrimonial house.

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6. Whether the applicant was employed prior to her marriage.
7. Whether she was working during the subsistence of marriage.
8. Whether the wife was required to sacrifice her employment opportunities.
9. Reasonable costs of litigation for a non working wife.
10. Age and employment of the parties
11. Duration of marriage
12. Maintenance of minor children
13. Serious disability or ill health of a spouse, child/children from marriage or Dependent relative who requires constant care and recurrent expenditure.

It is pertinent to mention that the R1 has admitted the factum of marriage and it is also not in controversy that the minor child is in the custody of the complainant. R1 has claimed that the complainant is a post graduate and is CTET qualified however, the complainant has not disclosed the said fact in her affidavit on purpose. It has also been admitted by the complainant that earlier she was employed as a lecturer in Delhi university. Therefore, the complainant being well qualified is capable of earning and fending for herself. In view of the same, this court deems it fit to decline the grant of interim maintenance to the complainant at this stage. Furthermore, it also appears that the complainant has not made proper disclosure in her affidavit w.r.t her qualifications as no person would be allowed to work as a lecturer in Delhi University just by being a Post Graduate. As far as the minor child is concerned, no delineation of expenses or proof of expenses has been provided. The child is in the custody

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of the mother and is about 2 years old.

As rival claims have been put forth by the complainant and the respondent no. 1 with respect to income of each other, a prima facie view is drawn and considering the totality of facts and circumstances and the material placed on record, **R1** is directed to make payment of interim maintenance of Rs. 8500/- per month for the minor child directly into bank account of complainant from the date of filing of the present petition till disposal of the present complaint or till such time, complainant is entitled to receive the same whichever is earlier. Any amount already paid in any other proceedings shall be adjusted in the present matter upon actual payment. This amount shall be adjusted towards any further order and is without prejudice to rights of both the parties in respect of the present case.

Application stands disposed of accordingly.

Complainant is directed to file her evidence by way of affidavit with advance copy to R-1.

Both the parties are directed to file their list of witnesses.

Be put up for CE on 23.07.2024.

