

**12.05.2014**

The order arises out of a petition filed by the petitioner u/s 23 of the Protection of Women from Domestic Violence Act (in short, the 'Act') seeking Rs. 30,000/- as interim maintenance from the respondent for herself as well as the education expenditure of her children.

The short fact giving rise to the present petition is that, the petitioner is the legally married wife of the Respondent, Pankaj Kumar Behera. The marriage was solemnized on dtd. 11.03.1993 as per Hindu rites and customs. Out of their wed lock two sons were begotten. During the year 2008 as per the petitioner when she along with the respondent and their children residing at Kamakshya Nagar, Dhenkanal at that time, the respondent had an extra marital affairs with a lady in the same colony where they were residing. From that period the petitioner became subject to mental & physical torture by the respondent. Afterwards on dtd 04.06.2010 they were shifted to a rented house from Kamakshya Nagar to Bhubaneswar. The petitioner further alleged that from 08.04.2011 the respondent neither come to the rented house at Bhubaneswar nor paid the rent of the house. As per the petitioner the respondent earning Rs 55,000/- on which regard the petitioner has filed the pay particulars of the respondent for the period of APR-2012 to OCT-2013. The elder son of the petitioner now studying at IIT, Bhubaneswar of which monthly education expenditure is Rs,55,000/- and the monthly education expenditure of second son is Rs,3,000/-. Including the rent of the house, education expenditure of the children, and towards other expenditure the petitioner prayed for interim maintenance of Rs, 30,000/- from the respondent.

On the other hand the Respondent filed an objection to the aforesaid petition denying all the allegations made by the petitioner regarding torture. It is the case of Respondent that, the petitioner has filed a false and fabricates case against him. The respondent further mentioned that, the affidavit filed by the petitioner is not in accordance with the prescribed Form-III. Further he submitted that the elder son is a major. Thus no where this Act provides monetary reliefs for the maintenance and education of a major son.

Heard both sides. Perused the case record. On perusal of case record it reveals that, it is an admitted fact that both the parties are husband and wife and out of their wed lock two children were also born and at present they are living separately from each other. The petitioner, on the one hand, claims that she is a destitute lady having no source of income. On the other hand, the Respondent claims that the petitioner has well source of income, more than him.

Since, the Act is a beneficial piece of legislation, aiming to protect the destitute women from vagrancy, it is necessary to allow the interim maintenance for the sustenance of the life of petitioner and her children.

So far as quantum of maintenance is concerned, the petitioner has claimed a sum of Rs. 30,000/- mentioning the fact that the respondent is earning Rs. 55,000/- per month and on the other hand Respondent raised no objection as to his monthly earning. So, considering the aforesaid facts, petition of petitioner is allowed. Hence this order.

**ORDER**

The respondent is directed to pay a sum of Rs.10,000/- (Rupees ten thousand only) to the petitioner towards interim maintenance for herself and for her children and the same shall be paid within 10<sup>th</sup> of each succeeding month, failing which the petitioner is at liberty to realise the same through the process of law.

Grant free copy of this order to the petitioner & the Opposite Party, to the IIC Kamakshya Nagar PS and DPO Khurda. Put up on ----- for further order.

Dictated

J.M.F.C., BBSR