

30.04.14

Adv for the petitioner as well as respondent are present and filed their respective haziras. Heard over the petition filed u/s 23 of the Protection of Women from Domestic Violence Act (in short, the 'Act') from both the parties filed by the Petitioner. Another petition filed by the respondent to reject the petition filed by the petitioner u/s 12 of the Act. Put up on 12 .05.2014 for order over the petition filed u/s 23 of the Act and objection & hearing over the petition filed by the respondent.

JMFC, BBSR

12.05.14

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. 1,00,000/- as interim maintenance from the respondent husband.

The short fact giving rise to the present petition is that, the petitioner is the legal married wife of the Respondent no.1 and she has filed the present Crml. Misc. Case. The marriage between the Petitioner and Respondent No.1 was solemnized on Dtd 24.06.2012 as per Hindu Rites and Rituals in the presence of both family members and relatives. After the marriage as per the demand of the Respondent No.1's father the petitioner father had given some of the house hold articles and gold ornaments which were rejected by the in-laws of the petitioner as those are not the standard of foreign quality. After few days the Respondent No'1 and his family members demanded a flat at Bhubaneswar which is in the name of the Petitioner's father and on disagree with their demand, the in-laws family started torturing her physically and mentally. Afterwards many of times the petitioner was subjected to physical and mental torture in respect to the demanded property/flat at Bhubaneswar. When the petitioner became severely ill due to forcefully taking of the abortion tablet by the in-laws on the threat of dire consequences, she came to her parents' house for treatment. On return to her in-laws house

after recovery, her in-laws refused her entry to the house & misbehaved and threatened her for dire consequences. Not getting to any other alternative the Petitioner returned to her Parent's house. The submission of the Petitioner is that now she used to stay at her parent's house in a miserable condition, because there is no other earning member except her father. So she became a burden over her parents. The Petitioner also submitted that the Respondent No.1 is a Research Scholar at ETH, Zurich, Switzerland and earning more than Rs4,00,000/- per month and the Respondent No.1 has also good landed property/Building as well as monetary deposits in several banks. But the Petitioner did not submit any valid document in that regard. Citing the aforesaid fact, the petitioner prayed to grant a sum of Rs,1,00,000/- per month as compensation to the present petitioner during the pendency of the present Misc. Case.

On the other hand the Respondent no.1 to 4 have filed their objections to this petition stating therein that, this interim application is not maintainable regarding the maintenance to the petitioner as it is not maintainable in the eye of law. Also Respondent No.1 submitted before the Court that he has sent one cheque amounting to Rs,2,50,000 in the name of the petitioner for her day to day expenditure and an amount of Rs,50,000 was transferred by one of his friend to the A/C of the father of the Petitioner. Besides this the petitioner time to time has taken cash from Respondent No.1. The petitioner is a film artist & also a singer & earns around one lakh per month & able to maintain herself. So she is not entitled to claim benefit under the Act. The Respondents also not submitted any documents towards their submissions.

Heard on the both the parties. Perused the case record. On perusal of case record it reveals that, the petitioner is the legally married wife of the respondent no.1 and during the subsistence of their marriage the petitioner subjected to physical and mental torture relating towards the demand of land/property from the side of the respondents. As a result the petitioner presently residing with her parents and became a burden over them. For that reason he prayed for interim maintenance of Rs,1,00,000/-. On the other hand, the respondent no.1 has alleged that since the petitioner is a film artist, also a singer and earns more than Rs,1,00,000/- hence this petition is not maintainable.

It is an admitted fact that, the petitioner is the legally married wife of the respondent No.1. After careful perusal of the petition and objection thereto I found that the petitioner in her para-5 stated that the respondent No.1 earning more than Rs,4,00,000/- per month. Upon this submission no objection raised by the respondents. Thus it could be presume that the respondent No.1 earning a handsome salary. On the other hand by living separately the petitioner is facing financial hardship.

Since, the Act is a beneficial piece of legislation, aiming to protect the destitute women from vagrance, it should be taken liberally. So far as the financial condition of both the parties is concerned, that is to be considered in course of the proceeding and at the same time respondent no.1 can not avoid his liability to pay maintenance to her wife. In these premises, I am of the view that, this is a fit case where an order U/S – 23 of the Act should be made against the respondent no.1. Hence ordered.

**ORDER**

The application U/S – 23 of the Act is allowed on contest against the respondent no.1. Opp. Party no.1 is directed to pay a sum of Rs.15,000/- (Rupees fifteen thousand only) to the petitioner towards interim maintenance till the disposal of this case with effect from the filling of this case and the same shall be paid within 10<sup>th</sup> of each succeeding month in shape of Bank Draft. The arrear amount shall be paid by respondent no.1 in three equal instalments 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 Khandagiri PS and DPO Khurda. Put up on ----- for hearing over the petition filed by the respondent.

Dictated

J.M.F.C., BBSR.

