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35 CT Cases 885/2023 XXXXXXXXXXXX Vs. XXXXXXXXXXXX /0
(New Usman Pur)

27.01.2025

Present: Petitioner in person a/w Ld. Counsel Sh. M M Hashmi.
Both respondents in person a/w Ld. Counsel Sh. Sunil
Dwivedi.

ORDER ON INTERIM APPLICATION U/S 23 DV ACT

1. Vide this order, the court shall decide application u/s 23 of the Protection of Women from Domestic Violence Act, 2005 ("PWDV Act") filed by the petitioner seeking interim reliefs.
2. By way of present application, the petitioner has sought the relief of interim maintenance for herself.
3. During the course of arguments, it is submitted on behalf of the petitioner that the petitioner got married to respondent no.1 on 20.03.2022 as per Muslim rites and ceremonies and the fact regarding the marriage is not disputed. It is further argued that after the marriage the respondent no.1 had committed various acts of violence against the petitioner including sexual violence, raising demands for dowry articles etc. It is further argued that since 10.07.2023, the petitioner is residing separately. It is further argued that the petitioner is unemployed and 12th pass. It is further submitted that the petitioner is residing in a rented accommodation owned by her brother. It is further submitted that the respondent no.1 is earning Rs. 1,00,000/- per month as he is running business of export and having other



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sources of income. It is further submitted that the petitioner is unable to maintain herself. Thus, it is prayed that the present application be allowed and the petitioner be granted the relief of interim maintenance.

4. Per contra, the present application is opposed by Ld. Counsel for respondent no.1. It is submitted on behalf of respondents that the present application and the case has been filed on the basis of false and frivolous facts. It is further argued that FIR had already been registered against the petitioner and her family members and the present case has been filed by the petitioner only to pressurize the respondents to get the matter settled. It is further argued that the petitioner used to live an adulterous life. It is further argued that no domestic violence had been committed against the petitioner and the present application should be dismissed forthwith.
5. Heard. Record perused.
6. The factum of marriage between the parties is admitted and at this stage, this court has to prima facie opine whether the petitioner was subjected to domestic violence by respondents at their shared household entitling her to the reliefs under the PWDV Act, 2005.
7. As per Section 2(a) of D.V. Act, "aggrieved person" is a woman who is or has been in a domestic relationship with the respondent and alleges to have been subjected to any act of domestic violence by the respondent. As per Section 23 of D.V. Act, any interim order may be passed that is deemed just and



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proper and upon satisfaction of the Magistrate as to prima facie commission of domestic violence by the respondent.

8. As per the admitted fact, the petitioner and respondent no.1 got married on 20.03.2022. During the course of arguments, it has been argued on behalf of respondents that the present case had been filed by the petitioner to pressurize the respondents to get the criminal case settled between the parties. Perusal of the record shows that alongwith the present petition, the petitioner had not filed anything document on record to prima facie show that she was subjected to domestic violence during her stay at her matrimonial house. Per contra, the respondents alongwith the WS had filed the copy of FIR bearing no. 0560/2023 u/s 452/323/34 IPC dated 22.07.2023 PS New UsmanPur filed by the respondent no.2 against the petitioner alongwith her family members. Perusal of record reveals that the present petition has been filed under Section 12 PWDV Act on 29.08.2023. Thus, evidently the present application had been filed after the registration of the afore-mentioned FIR. Thus, the arguments raised on behalf of respondent no.1 cannot be dismissed outrightly.

9. It is not in every case that simply because a petition under Section 12 has been filed by a woman that interim relief should be granted in her favour or that her application under Section 23 of PWDV Act should be allowed. Rather, the Court has to exercise it discretion after analyzing the pleadings of the parties and the material available on record. Considering the petition,



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WS and the record on the whole, without any evidence having been led by either side, at this stage, the Court is of the view that the petitioner has not prima facie established that she is an aggrieved person. The Court is not inclined to exercise its discretion in favour of the petitioner at this stage by allowing her application under Section 23 of PWDV Act. Accordingly, the present application filed on behalf of the petitioner, stands dismissed.

10. With the foregoing observations, application at hand stands disposed off in the aforesaid terms.
11. Nothing stated herein above shall tantamount to an expression of opinion on the merits of the case.
12. Copy of this order be given dasti to both parties as prayed.

Sd/-

(SONIKA)

JMFC/(Mahila Court)-02/NE.Distt.
KKD/Delhi/27.01.2025

न्यायिक दण्डाधिकारी प्रथम श्रेणी
(महिला न्यायालय)-02
Judicial Magistrate First Class
(Mahila Court)-02
उत्तर पूर्वी जिला
North-East District
कडकडूना न्यायालय, दिल्ली
Karkardooma Courts, Delhi

