

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

CRIMINAL REVISION APPLICATION NO. 34 OF 2021

Mrs. Sarita W/o. Arun Narnaware,
Aged about 27 years, Occ.Nil
R/o. C/o. Shri Ramesh Madhavrao
Nimbalkar, Plot No.573, Near Mata
Mandir, Godhani(Railway), Nagpur,
P.S. Mankapur. Mob. 9566446912.

.... **APPELLANT.**

// VERSUS //

1. Arun S/o. Harishchandra Narnaware,
Aged about 36 years, Occ. Business of
Arun Catering Services and Government
Service in Malaria Department,
R/o. 9/10, Doye Layout, Zingabai Takli,
Nagpur.
2. Smt. Sharda Meshram, aged about 30
years, Occ.: Not Known, R/o. C/o.
Harishchandra R/o. 9/10, Doye Layout,
Zingabai Takli, Nagpur.
3. Smt. Chandrakala W/o. Harishchandra
Narnaware, aged about 60 years,
Occ.Housewife, R/o.C/o.Harishchandra
Narnaware, R/o. Arun, 9/10, Doye Layout,
Zingabai Takli, Nagpur.

.... **RESPONDENTS.**

Shri A.A.Choube, Advocate for Petitioner/Applicant.
Shri Sarang Malode, Advocate for Respondent Nos.1 to 3.

CORAM : ANIL S. KILOR, J.
DATED : MARCH 24, 2022

ORAL JUDGMENT :

1. This is an application filed under Section 397 of the Code of Criminal Procedure challenging the order below Exh.1 dated 01/11/2018 passed by 17th Judicial Magistrate First Class (Spl. Court of P.W.D.V. Act), Nagpur in Misc. Criminal Case No.1000/2018, partly allowing the application and directing the respondent No.1 to pay Rs.6,000/- per month to the applicant towards maintenance from the date of filing of the application under Section 23 of the Protection of Women from Domestic Violence Act, 2005 till final decision of the main petition.
2. Heard learned counsel for the respective parties.
3. Shri Choube, learned counsel for the petitioner/applicant points out that though the sufficient documentary evidence was produced before the Court below, without appreciating the same, meager amount of Rs.6,000/- per month was fixed as interim maintenance.

4. It is submitted that even there are no reasons given by the learned Court below, to arrive at a figure of Rs.6,000/-. Thus, he submits that the impugned order is without reasons and hence, he prays for quashing and setting aside the same.

5. The learned counsel for the respondents fairly states that there are no reasons recorded by the learned Judicial Magistrate First Class.

6. To consider the contentions raised in this matter, I have perused the record and also the impugned order dated 11/11/2018.

7. The applicant has produced numerous documents on record to show the lifestyle and the income of the applicant and on the basis of such documentary evidence, the claim was put-forth before the learned Judicial Magistrate First Class, for grant of maintenance.

8. While recording the findings on the point “whether the applicant is entitled to get interim monetary relief?” the learned Court below has recorded findings as under:

“(12) Applicant prayed to grant Rs.1,00,000/- p.m. in total for maintenance. In support of which she filed some xerox copies of photographs on record. Domestic Incident report is on record. Applicant filed report at P.S. Koradi. It is moral and social obligation of husband

to maintain his wife and children in the present case, amount of Rs.6,000/- p.m. to applicant towards interim maintenance is appropriate and just. Accordingly, point No.2 is answered.”

9. The learned trial Court has not given any reason for arriving at a figure of Rs.6,000/-. It is difficult to find out what weighed with the learned trial Court while arriving at figure of Rs.6,000/- towards interim maintenance, in absence of recording of reasons.

10. In the circumstances, as the order is without reasons, I am of the opinion that it needs to be quashed and set aside and the matter needs to be remitted back to the learned trial Court for consideration afresh. Accordingly, I pass the following order :

- i) The Revision Application is partly allowed.
- ii) The impugned order dated 01/11/2018 passed by 17th Judicial Magistrate First Class (Spl. Court of P.W.D.V. Act), Nagpur below Exh.1 in Misc. Criminal Case No. 1000/2018, is quashed and set aside.
- iii) The matter is remanded back to the learned 17th Judicial Magistrate First Class (Spl. Court of P.W.D.V. Act), Nagpur for deciding application Exh.1 afresh, in accordance with law, after giving due opportunity of hearing to the parties.

- iv) The applicant/petitioner and the respondents shall appear before the 17th Judicial Magistrate First Class (Spl. Court of P.W.D.V. Act), Nagpur on 6th April 2022 at 11:00 a.m.
- v) The learned 17th Judicial Magistrate First Class (Spl. Court of P.W.D.V. Act), Nagpur shall decide the application under Section 23 of the Protection of Women from Domestic Violence Act 2005, as expeditiously as possible, and in any case before 30th June 2022.
- vi) In the meantime, the respondent No.1, by way of interim arrangement, shall continue to pay Rs.6,000/- per month to the applicant.

The Revision Application stands **disposed of** in the above terms.

Pending Criminal Application(s), if any, shall stand disposed of.

(ANIL S. KILOR, J)

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