



IN THE COURT OF Ms. POOJA YADAV, JUDICIAL MAGISTRATE FIRST
CLASS (MAHILA COURT-03), DELHI

PS Subzi Mandi

25.09.2025

ORDER ON INTERIM APPLICATION U/S 23 D.V. ACT

1. Vide this order, this court shall decide interim relief(s) prayed by the petitioner under application under Section 23 of the Protection of Women from Domestic Violence Act, 2005 ("DV Act").
2. That the petitioner has filed this petition u/s-12 DV Act against- Mr.

Vide order dated 23.02.2024, R-1 was summoned. Thereafter, based on Domestic Incident Report (DIR), the R-2 was summoned, and the remaining respondents (R-3 and R-4) were deleted from the array of parties on 01.04.2024.

3. Briefly stated, the facts of the case are that Petitioner got married to R1 according to hindu rites, ceremonies, rituals and customs on 06.02.2017 at Prakash Regency, Hapur, Uttar Pradesh. It is alleged in the application that the respondents abused the petitioner verbally, physically and emotionally. They committed several acts of domestic violence upon the petitioner on account of bringing insufficient dowry or dowry of inferior quality, details

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of which are given in the application u/s-12 DV Act preferred by the petitioner.

4. Ld. Counsel for the petitioner has *inter alia* argued that the petitioner is a law graduate and at present living with her married brother, who was recently blessed with a boy, therefore, asked the petitioner to vacate his premise. Now, the petitioner has no other place to reside. She was earlier working with Delhi Commission for Women (DCW) on contractual basis till October 2024 and since then, she has not been working and is dependent upon her brother for her sustenance. With respect to R1, it is submitted that R1 is B.Tech (Computer Science) and earning around Rs. 40,000/- per month. He owns several immovable properties including ancestral property, and his mother is a pensioner, thus, not dependent upon him. Besides his salary, he has other sources of income like from agriculture, share market, banquet hall etc.. It is thus, prayed that maximum interim monetary relief be granted in favour of the petitioner. Ld. Counsel for the petitioner has relied upon judgments i.e., *Rajesh Vs. Neha & Anr*, of Hon'ble Supreme Court of India (2020) 13 SCR 1093 ; *Kanupriya Sharma Vs. State and Anr of Hon'ble High Court of Delhi* (DOD : 31.05.2019) [2019:DHC:2997]; *Neelam Walia Vs. Sanjay Walia of Hon'ble High Court of Delhi* (DOD: 07.01.2025) [2025:DHC:13] and *Sudhanshu Jaggi Vs. The State (Govt. Of NCT of Delhi) and Anr. of Hon'ble High Court of Delhi* (DOD 09.09.2024) [2024:DHC:6907] to argue that the petitioner is entitled for interim maintenance on showing mere commission of acts of domestic violence.

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- High qualifications and petitioner's income- be it some or sufficient, do not become a ground for rejecting her claim of maintenance.
5. Further, it was argued that R-1 has concealed his income and a tabular chart reflecting the specific concealment in his income affidavit was mentioned in the written submissions filed on behalf of the petitioner. Certain photographs and property documents were also filed alongwith the written submissions. Only monetary relief was pressed during the oral arguments. Thus, it was prayed that maximum interim maintenance and rent amount be awarded in favour of the petitioner.
6. Per contra, Ld. counsel for R-1 argued that the petitioner has done B.Com and is a Law graduate. She is a licensed legal practitioner. She is highly qualified to sustain herself. She was earlier employed and was earning salary around ₹51,000 and is now practising as an Advocate with seniors and earning well. She has concealed her income. He had relied upon judgement Niharika Ghosh @ Niharika Kundu Vs. Shankar Ghosh of Hon'ble High Court of Delhi (DOD: 12.09.2023) [2023: DHC:6553:DB] to argue that a woman highly qualified if chooses not to work is not entitled to interim maintenance. It was further argued that R-1 is earning around Rs. 35,000/- as on date as his income is not fixed and keeps varying based on the number of working days as he is working on contractual basis with NTPC as he done B. tech and his basic pay is Rs. 26,000/-. Contracts in this regard were filed by R-1.

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7. It was further argued that the R-1's family supported the petitioner in pursuing her LL.B as she was residing separately as paying guest and the entire expenses were borne by them, despite that, the petitioner tortured R-1 and his family members. It was further submitted that R-2, mother of R-1, aged about 66 years, who is suffering from various ailments, is also dependent upon him. As far as the ancestral property is concerned, it was submitted that the same has not been partitioned by meets and bounds and R-1 is not receiving any benefit out of the same. Accordingly, it was prayed that present application be dismissed forthwith. Ld. Counsel has also relied upon the judgments i.e., *Rajnish Vs. Neha of Hon'ble Supreme Court of India (DOD 04.11.2020) AIR 2021 SUPREME COURT 569*; and *Rajesh Sharma Vs. The State of U.P (DOD 27.07.2017) AIR 2017 SUPREME COURT 3869* in support of his arguments.
8. Documents of Zerodha account filed by R1 on record to show his *bona fide* that he is not earning any income from the same.
9. Written submissions filed by both the parties and the supporting documents have been perused. I have gone through the case-laws cited by both the parties and have remained cognizant of the legal principles laid down in those judgments, while deciding the present application.
10. Record perused. Pleadings, income affidavits and bank statements filed on behalf of both the parties perused.
11. In the **income affidavit of the petitioner**, it is mentioned that the petitioner a law graduate. She is currently unemployed and staying with her brother. Her

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monthly expenses are around Rs. 35,000/- which are being borne by her brother. Concerning R-1, it is mentioned in the income affidavit that he has done B. tech and is receiving salary of Rs. 40,000/- as he is working in NTPC and has other sources of income too.

12. From the allegations levelled by the petitioner in her petition, she *prima facie* appears to be "aggrieved person" as per definition under Section 2(a) DV Act. I may now advert to the facts of the case to decide whether based on the material available on record, the petitioner is entitled for interim monetary relief at this stage.

13. In the **income affidavit of R-1**, it is mentioned that he has done B. Tech and is earning around Rs.30,000/- to Rs.35,000/- per month. His mother aged about 66 years is dependent upon him. Concerning the petitioner, it is mentioned that she is B.Com, LL.B; was earning Rs. 51,684/- as a legal counsellor in Delhi Commission for Women and now is a practicing advocate and is earning well.

14. An application under section 23 (1) of the DV Act is an application for fixing interim maintenance, which is fixed on taking a prima facie view of the matter. Disputed questions of facts raised at this stage, which require evidence, cannot be delved into. It has been observed in a catena of judgements that there is a tendency to downplay the income when a person is embroiled in a matrimonial dispute. Similarly, the claims made by the wife are also exaggerated in such cases. Thus, it is prudent for the courts to

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make some estimation and arrive at a figure that a party may reasonably be earning.

15. It is not in dispute that the petitioner is a law graduate and was previously working with the Delhi Commission for Women drawing a salary of approximately ₹51,000/- per month until October 2024. She has not placed on record any material to show that she is unable to work now or that there is any genuine obstacle in seeking employment. There is no child from the marriage and no such responsibility which may prevent her from working. Though she claims to be residing with her married brother and incurring monthly expenses of around ₹30,000/- and rent; this claim is not supported by any document (any transaction records or any evidence to show that he is actually bearing these expenses). On the other hand, several credit entries are seen in her bank account post March 2024, which remain unexplained. All this casts doubt on her assertion that she is presently without any source of income.

16. Given her qualifications, work experience, and the absence of any compelling reason for unemployment, it is unbelievable that she is currently unemployed. Thus, the court is of the view that the petitioner is capable of sustaining herself at this stage. Relief(s) as prayed by the petitioner in her application u/s- 12 DV Act shall be decided on merits upon conclusion of trial.

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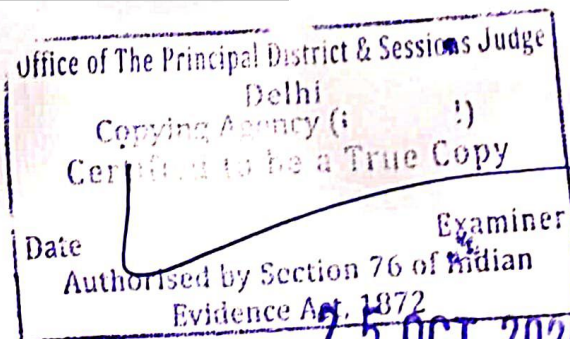
17. In view of the above and the legal principles, the interim application u/s-23 (1) DV Act of the petitioner seeking only maintenance- monetary relief is disallowed at this stage and disposed of accordingly.
18. The observation made in the order shall not tantamount to any findings on merits of this case.
19. The petitioner is directed to file her evidence by way of affidavit on NDOH.

PRONOUNCED IN OPEN COURT ON 25.09.2025.


(Pooja Yadav)
JMFC (Mahila Court-03)
Central/THC/Delhi
25.09.2025

This order contains 07 (seven) pages; each page bears my signature, and the order has been dictated to Ms. Pooja, PA, attached with the undersigned.

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