

न्यायालय सिविल जज (जू0 डि0)/एफ 0 टी0 सी0-2/जे.एम. गौतमबुद्धनगर  
उपस्थित:-प्रभात कुमार (उत्तर प्रदेश न्यायिक सेवा)

रजि नं०-7186/2023

परिवाद संख्या-28278/2023

अ० धारा-12 घरेलू हिंसा अधिनियम

दिनांक:-24.06.2026

1. पत्रावली आदेशार्थ पेश हुई। पक्षकारों के विद्वान अधिवक्ता को प्रार्थना पत्र धारा 23 व आपत्ति पर सुना गया।

2. प्रार्थिनी द्वारा प्रार्थनापत्र दिनांकित 21.03.2025 आधिनियम की धारा 23 घरेलू हिंसा से महिला संरक्षण अधिनियम 2005 प्रस्तुत किया गया, जिसमें प्रार्थिया को खर्चे के लिए अंतरिम भरण-पोषण दिलाए जाने हेतु याचना की गई है।

3. परिवादनी/प्रार्थिया का प्रार्थना पत्र अंतर्गत धारा 23 घरेलू हिंसा से महिला संरक्षण अधिनियम 2005 में यह कथन है कि That the Complainant got married to the Respondent on 13.11.2013 according to Hindu rites and rituals at Lucknow. That the Respondent is committing extreme mental, physical and financial cruelty upon the Complainant since few years into the marriage as reiterated in the petition/complaint filed by the Complaint in the instant matter. That recently in July 2023, the Respondent left the company of the Complainant and their minor son and since then he has deserted the Complainant. The Complainant is singlehandedly taking care of herself and the minor child since the time of desertion by her husband i.e. the Respondent. That the Complainant is jobless since March, 2023 and has no source of income and is completely dependent upon her savings. That the Respondent, on the other hand, has fixed source of income and is in possession of a lot of wealth from his parental home. That it is submitted that the Respondent has no other liability upon him as his family members have their own independent source of income and none of them is dependent on the Respondent for anything. That it is submitted that the Respondent has intentionally and deliberately refused and neglected to maintain and support the Complainant and their minor when he is under a legal obligation to maintain both of them. The Complainant since the aforesaid date, has tried to contact the Respondent on several occasions to request him to return back to his wife and minor child, however, the Responded did not pay any heed to the matter. That it may also be noted that the Respondent, at the time of leaving the Complainant and the minor child, has also taken the car

(XUV 700, bearing registration number UP16DC2346) which is in the name of the Complainant. That the instances of cruelty are numerous, and the Complainant is not reiterating all such instances for the sake of brevity and the contents of the Petition/Complaint may be considered a part of the instant application. That in view of the aforementioned circumstances, it is in the interest of justice, equity and conscience that this Hon'ble Court may be pleased to direct the Respondent to pay a sum of Rs. 1,00,000 per month to the Complainant as her maintenance pendent lite and Rs.1,00,000/-towards the cost of litigation.

4. दिवशी को नोटिस भेजा गया, वह न्यायालय में उपस्थित आया।

5. दिवशी की ओर से उपरोक्त प्रार्थना पर आपति इस आशय की प्रस्तुत की गयी है कि That the present application is sheer misuse and abuse of statutory provisions of section 23 of PWDV and the same has been filed by the Respondent only to cause harassment, torture, cruelties and atrocities upon the Petitioner. That it is respectfully submitted that on 19th May 2025, this Hon'ble Court of Principal Judge Family court Noida awarded interim maintenance to the Complainant, Neha Joshi, in the sum of ₹25,000 per month, along with ₹50,000 toward litigation costs, for her own welfare and that of the minor child. That the present application is clearly premised on exactly the same facts, circumstances, income affidavits, bank statements and documentary material that were earlier submitted before the Principal Judge, Family Court, Noida, in the main divorce petition. No new facts or changed circumstances whatsoever have been pleaded or substantiated therein. That re-litigating the identical issue of interim maintenance on identical material before another Court, after a final order has already been passed, amounts to an abuse of the judicial process and is barred under the doctrine of res judicata. That in Renu Mittal v. Anil Mittal & Ors., Cr. R.P. No. 633/2010 & Cr. M.A. No. 15451/2010, decided on 27.09.2010, the Delhi High Court held that once maintenance has been granted under Section 125 Cr.P.C., re-adjudication under the Domestic Violence Act is impermissible, as both provisions are of parallel jurisdiction. That in R.D. v. B.D., MAI APP. (F.C.) 149/2018 (DB), decided on 31.07.2019, the Bench reaffirmed that once interim maintenance has been granted in one set of proceedings (CrPC/DV Act), the same cannot be re-agitated in another forum, except via Section 127 Cr.P.C. That the Delhi High Court, in cases such as Rani & Anr. v. Dinesh (2 Dec 2020), has reiterated that provisions of the DV Act are supplementary and not a parallel avenue for re-litigation of a matter already adjudicated elsewhere. That the principle of finality of litigation, rooted in public policy, prohibits multiplicity of proceedings

there is a new or changed circumstance. In the present case, it has been shown.

#### REPLY ON MERITS

That the contents of para 1 of the application are a matter of record to the extent that the parties were married on 13.11.2013 according to Hindu rites and rituals at Lucknow. However, any implied allegations regarding the nature of the relationship are denied. That the contents of para 2 are false, baseless, and hence denied in toto. It is specifically denied that the Petitioner ever committed any form of cruelty mental, physical or financial upon the Respondent. On the contrary, the Respondent indulged in an adulterous relationship with her superior, which is substantiated with photographic evidence annexed to the petition. Her misconduct and abandonment of the matrimonial relationship disentitle her to any relief under Section 24 of the Hindu Marriage Act. That the contents of para 3 are incorrect and denied. It is false to suggest that the Respondent has been deserted. In fact, it is the Respondent who forcibly ousted the Petitioner from his home to continue her adulterous affair. She has refused reconciliation, and her conduct disqualifies her from seeking maintenance under settled law. The Petitioner continues to bear the entire financial burden for the child and household despite such conduct. That the contents of para 4 are denied as being misleading and an intentional concealment of material facts. The Respondent is an educated and professionally successful woman, currently working as a Director – Enterprise Consulting, was earning a gross annual salary of 27,22,380/-, as evidenced by her ITR, LinkedIn profile and other material on record. She has also concealed freelance income and foreign remittances. The Respondent is thus financially independent and fully capable of maintaining herself and the child. Her plea of being jobless since March 2023 is a deliberate falsehood intended to extract interim relief through suppression of truth. That the contents of para 5 are denied. The Petitioner does not possess any ancestral wealth, and bears substantial liabilities. Furthermore, the Respondent herself is in a far superior financial position and cannot seek maintenance from the Petitioner under law. That the contents of para 6 are denied. The Petitioner bears multiple financial liabilities, including household maintenance, child's schooling, medical expenses, EMI for the residence where the Respondent resides, and daily expenditure amounting to approx. ₹40,000 per month, as already detailed in the income affidavit of the complainant. The Respondent is not dependent on the Petitioner. That the contents of para 7 are denied as false and contrary to record. The Petitioner has not refused to support his child. He is already meeting all educational, medical, and household needs of the minor. The Respondent is using this application to maliciously enrich herself despite being financially sound. That the contents of para 8 are

denied. It is denied that the Respondent ever made any genuine attempt to reconcile. She never filed a case under Section 9 for restitution of conjugal rights, which shows her lack of intention to resume marital relations. Her unilateral abandonment of the matrimonial relationship coupled with adultery is sufficient to bar her claim under Section 24 HMA. That the contents of para 9 are admitted to the limited extent that the XUV 700 vehicle is in joint name; however, the allegation that it was wrongfully taken is denied. The vehicle has always remained with the Petitioner who bears its upkeep and other liabilities. That the contents of para 10 are denied. The Petitioner reiterates that all material facts, including Respondent's adultery, concealment of income, and suppression of facts have been detailed in the petition. The vague mention of "numerous instances" without evidence further reflects that the application is designed to harass and extort. That the contents of para 11 are denied as being untenable, meritless, and barred by law. The Respondent is not entitled to interim maintenance or litigation expenses, having indulged in adultery, being gainfully employed, and having concealed material facts. The Hon'ble Courts have consistently held that such persons are not entitled to relief. The application deserves to be dismissed with exemplary costs.

**PRAYER:**

- (a) Dismiss the application under Section 24 HMA for interim maintenance and litigation expenses with costs,
- (b) Take on record the suppression of facts, adulterous conduct, and financial concealment by the Respondent, and
- (c) Pass such other or further orders as this Hon'ble Court may deem fit in the interest of justice..

6. न्यायालय द्वारा सुना गया एवं पत्रावली का अवलोकन किया गया।
7. पत्रावली के अवलोकन से यह स्पष्ट है कि प्रार्थिया व विपक्षी पति-पत्नी है। दोनों के द्वारा आय शपथ पत्र व प्रमाण पत्र दाखिल किया गया।
8. पत्रावली के अवलोकन से प्रथम दृष्टया स्पष्ट है कि विपक्षी द्वारा घरेलू हिंसा कारित किया जाना दर्शित है।
9. प्रार्थिया के शपथपत्र के कथानुसार प्रार्थिया की उम्र लगभग 37 वर्ष है। प्रार्थिया द्वारा B.E किया हुआ है तथा वह वर्तमान में बेरोजगार है, उसकी आय का कोई स्रोत नहीं है। इसके अतिरिक्त द्वारा अपने पिछले दो वर्ष 2021-22 एवं 2022-2023 आई.टी.आर की प्रति दाखिल की गई है, जिसमें परिवारिनी की वार्षिक आय 2,08,800 व 12,07,767/- रुपये अंकित है।
10. प्रार्थिया एवं विपक्षी के एक पुत्र है जिसकी आयु लगभग 03 वर्ष है जो वर्तमान में प्रार्थिया के साथ रह रहा है।
11. विपक्षी संख्या 01 द्वारा आय शपथ पत्र व प्रमाण पत्र दाखिल किया गया जिसमें विपक्षी द्वारा बताया गया कि वह उम्र 36 वर्ष का है और उसने इंजीनियरिंग किया हुआ

है। वह Ericsson India में Project Manager के पद पर कार्यरत है। विपक्षी द्वारा अपने आय शपथ पत्र में अपनी मासिक आय 120,133/- रुपये बताई है।

12. धारा 23 घरेलू हिंसा से महिला संरक्षण अधिनियम 2005 के तहत मजिस्ट्रेट इस अधिनियम के अधीन उसके समक्ष किसी कार्यवाही में ऐसा अन्तरिम आदेश, जो न्याय संगत और उपयुक्त हो, पारित कर सकेगा।

13. पत्रावली के अवलोकन से विदित है कि परिवादिनी द्वारा जो अपना आय शपथ पत्र दाखिल किया गया है, उसमें परिवादिनी द्वारा यह टंकन किया है कि प्रार्थिया द्वारा B.E किया हुआ है तथा वह वर्तमान में बेरोजगार है, उसकी आय का कोई स्रोत नहीं है। परंतु यहां यह तथ्य भी अवलोकनीय है कि परिवादिनी द्वारा पिछले दो वर्षों की आई.टी.आर की प्रति दाखिल की गई है, जिसमें परिवादिनी की वार्षिक आय 2,08,800 व 12,07,767/- रुपये अंकित है। जिनसे दर्शित हो रहा है कि परिवादिनी कुछ आय अर्जित कर रही थी तथा वह कार्य करने में सक्षम है।

14. उपरोक्त से दर्शित है कि परिवादिनी एवं विपक्षी दोनों कार्य करने में सक्षम हैं। अतः उक्त तथ्यों को दृष्टिगत रखते हुए न्यायालय का मत है कि विपक्षी सं०- 01 प्रार्थिया का पति है तथा सांसारिक नियमानुसार पत्नी एवं बच्चों की देखभाल करने का दायित्व पति का होता है और वह इस कर्तव्य से भाग नहीं सकता है यद्यपि परिवादिनी कुछ आय अर्जित कर रही थी, परंतु वह वर्तमान में बेरोजगार है। तथा पत्रावली के परीशीलन व तथ्यों को देखते हुए प्रार्थिया एवं उसके पुत्र के लिए अंतरिम भरण-पोषण दिलाया जाना न्यायोचित प्रतीत होता है।

#### आदेश

15. विपक्षी संख्या 1 को आदेशित किया जाता है कि वह प्रार्थना पत्र दिनांकित 21.03.2025 वास्ते अन्तरिम भरण पोषण प्रस्तुत किये जाने की दिनांक से प्रार्थिया एवं उसके पुत्र के लिए मु० 25,000/- (पच्चीस हजार रुपये) प्रतिमाह की दर से अन्तरिम भरण-पोषण भत्ता वाद के निस्तारण तक प्रत्येक माह की 10 तारीख तक अदा करें। अगर विपक्षी किसी अन्य जगह कोई भी राशि अदा कर रहा है तो उसको समायोजित किया जाएगा।

विपक्षीगण को आदेशित किया जाता है कि वह परिवादिनी के साथ कोई हिंसात्मक व्यवहार न करें।

इस आदेश की एक प्रति आवश्यक अनुपालन हेतु जिला संरक्षण अधिकारी तथा संबंधित थाना प्रभारी को अविलम्ब प्रेषित किया जाये।

पत्रावली वास्ते साक्ष्य हेतु दिनांक 22/03/24 को पेश हो।

(प्रभाज कुमार)

सिविल जज (जू० डि०)/एफ० टी० सी०-2

गौतमबुद्धनगर।