

**(2009) 06 AHC CK 0031**  
**In the Allahabad High Court**

|                                      |            |
|--------------------------------------|------------|
| Brijesh Kumar Yadav @ Guddu & Others | APPELLANT  |
| Vs                                   |            |
| State of U.P.& Another               | RESPONDENT |

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**Date of Decision :** 01-06-2009

**Acts Referred:**

**Citation :** (2009) 06 AHC CK 0031

**Hon'ble Judges :** Sunil Ambwani, J

**Final Decision :** Dismissed

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## Judgement

Sunil Ambwani, J.

Heard Shri H.N. Singh, learned counsel for the petitionerhusband.

By this writ petition the petitioner husband has challenged the interim order of Judicial Magistrate, Room No. 1, Allahabad dated 24.10.2008 in Complaint No.711/12/08 under Section 23 of the Protection of Women from Domestic Violence Act, 2005. After issuing notice and hearing the petitioner husband, the Judicial Magistrate has passed an interim order on his prima facie satisfaction, that the petitioner has committed acts of domestic violence. He has directed the husband to pay Rs. 2000/ per month towards food, clothing, medicines and other necessities of life for both the respondent wife and their minor son; right to live in the shared house, if she wants to reside therein; return her entire "Stridhan", and has also passed a protection order protecting the respondent wife from any further violence and has directed the Station House Officer, Khuldabad to carry out the orders. The Magistrate then fixed 12.11.2008 for complainant"s evidence.

The Appeal No. 213 of 2008 against the order was dismissed by Additional District & Sessions Judge, Court No. 6, Allahabad on 13.4.2009, giving rise to this writ petition.

It is contended by the petitioner that they were married on 20.11.2005, and that the respondent wife left him without any good reason on 30.4.2006. She has not proved the allegations of domestic violence and that the complaint was filed by her as a counter blast, to the suit of restitution of conjugal rights filed by the

petitioner husband on 11.8.2008. It is also stated that the respondent wife has not given the list of stridhan items to be returned to her.

It is admitted that the respondent wife left the house shared by her, after living with him for a short time. The satisfaction of the Magistrate of domestic violence, on the allegations that the husband used to beat her and had harassed her for dowry, based on her statement on record does not call for any interference at this stage. The petitioner will have a right to prove his defence in the proceedings.

The fact, that the respondent wife has not filed a list of the items of her stridhan, may also be considered by the Magistrate at the time of hearing of the application for final orders.

The amount of Rs. 2000/ for maintenance of a married woman and a child does not appear to be excessive. The petitioner has not given the source of his income. The statement of fact, that he is unemployed, does not mean that he has no income at all. Where the husband does not disclose the source of his income or even the source of money received from his parents or friends, the Court was justified in awarding a minimum amount of maintenance to the applicant and the child to meet the necessities of life.

The criminal writ petition is dismissed.