

IN THE COURT PRINCIPAL JUDGE, FAMILY COURT, JEHANABAD

MATRIMONIAL CASE NO. 30 OF 2022

(Suraj Kumar V/s Kajal Kumari)

O R D E R

06.03.2023

1. A petition dated 19.12.2022, under section 24 of the Hindu Marriage Act, 1955, has been filed on behalf of the opposite party namely, Kajal Kumari, for grant of interim maintenance from her husband / applicant namely, Suraj Kumar wherein it has been submitted that she is legally wedded wife of applicant and she has got no independent source of income and completely dependent upon her husband / applicant for her daily needs and expenses. It is further submitted that her husband / applicant has got various source of income and besides that he also possessed movable and immovable properties. Her husband / applicant is an employee in Indian Railway and getting Rs. 40,000/- as his salary and besides that from agricultural source of income, his earnings is about Rs. 2 lakhs per year, but intentionally and deliberately, he refused to bear the daily needs and expenses of his wife / opposite party hence, it is prayed on behalf of the opposite party to grant her interim maintenance of Rs. 15,000/- per month besides lump-sum amount of Rs. 10,000/- as cost of the suit, from her husband / applicant.

2. Apart from that, the applicant having filed a rejoinder, has contended that the petition dated 19.12.2022, filed on behalf of his wife / respondent, is not maintainable either on facts and law or under the circumstances of the above noted proceeding. Further, his wife / respondent has filed the instant petition only with ulterior motive and with a view to exert undue pressure upon him. It is further contended on behalf of the applicant that he has got no other source of income except his salary and all his family members i.e. his father, mother and sister are fully dependent upon him for their daily needs and expenses hence, he is not in a position to pay temporary alimony besides litigation cost as prayed for by his wife / respondent so, in the interest of justice, the instant petition as filed on behalf of his wife / respondent, is fit to be rejected.

3. Having heard both the sides and on perusal of case record, it transpires that the instant matrimonial case has been filed on behalf of the applicant Suraj Kumar against the opposite party namely, Kajal Kumari, for dissolution of marriage and after issuance of process, the opposite party along with

vakalatnama appeared before the Court and the case record was fixed for further proceedings. Subsequently, a petition dated 19.12.2022, has been filed on behalf of the opposite party, under section 24 of the Hindu Marriage Act, 1955, praying therein to grant her interim maintenance amounting Rs. 15,000/- besides Rs. 10,000/- as cost of litigation, from her husband / applicant who is an employee in Indian Railway and getting monthly salary of about Rs. 40,000/- and besides that he has also got agricultural land from which his yearly income is about Rs. 2 lakhs, but intentionally and deliberately, he refused to pay any kind of maintenance to meet her daily needs and expenses.

4. On the other hand, the applicant having filed a rejoinder, has submitted that only with ulterior motives and with a view to exert undue pressure upon him, his wife / respondent has filed the instant petition for granting interim maintenance to her. It has further been submitted that he has got no source of income except his monthly salary from Indian Railway and all his family members i.e. his father, mother and sister are fully dependent upon him for their daily needs and expenses hence, he is not able to pay either the maintenance amount or the cost of litigation, to his wife / respondent.

5. From perusal of case record, it further appears that it is an admitted fact that the opposite party is legally wedded wife of applicant who is an employee in Indian Railway and has got sufficient means and fully capable to maintain her daily need and expenses, but he is deliberately and intentionally abstaining from his duties as a husband and the fact of employment in Indian Railway has also been admitted by the applicant in his rejoinder petition.

6. However, the financially vulnerable spouse has the right to seek financial support from the earning spouse. Section 24 of the Hindu Marriage Act, 1955 provides for the maintenance pending litigation and the expenses for proceedings. The relief under section 24 of the Hindu Marriage Act, 1955 is to ensure that the parties do not suffer during the period of their substantive proceedings because of their poverty. The Hon'ble Patna High Court, in CWJC No. 2843 of 2014, in the matter of **Sri Sunil Chandra Singh V/s Smt. Seema Singh** has held that - "As observed by the Hon'ble Apex Court, though in the context of section 125 of the CrPC, in **Shail Kumari Devi V/s Krishan Bhagwan Pathak, AIR 2008 SC 3006** that maintenance is a right which accrues to a wife against her husband, the minute the former gets married to the later. It is not only a moral obligation but is also a legal duty cast upon the husband to maintain his wife."

7. The purpose of maintenance therefore, is definitely to prevent vagrancy

and provide financial support in appropriate cases to the wife. By the provision enshrined in section 24 of the Hindu Marriage Act, 1955 the amplest discretion has been conferred upon the Court in a matrimonial proceeding to pass appropriate order in this regard.

8. Considering the entire facts and circumstances of the case, materials available on the record, submissions advanced on behalf of both the sides as well as the prayer made on behalf of the opposite party, the petition dated 19.12.2022, filed on behalf of the opposite party, under section 24 of the Hindu Marriage Act, 1955, for grant of interim maintenance besides the cost of litigation, from her husband / applicant, is hereby allowed.

9. Accordingly, in the light of discussions and observations made in the foregoing paragraphs, the living standard of both parties as well as considering the present rate of inflation, the applicant namely, Suraj Kumar is hereby directed to pay interim maintenance amounting Rs. 10,000/- per month along with Rs. 25,000/- as cost of the suit, to the opposite party, from the date of passing of this order. This amount is to be deducted from the salary account of applicant and to be credited in the account of opposite party. The applicant is further directed to ensure that the above-said amount of interim maintenance is transmitted to the opposite party, on or before the 15th day of each succeeding month and the arrears, if any, be also paid to the petitioner / applicant in ten equal installments.

Let the amount of interim maintenance, be deducted from the salary of applicant namely, Suraj Kumar and a copy of this order be forwarded to DRM Sonapur Division, for information and needful.

Put up this case on, for further proceedings.

Dictated


Principal Judge,
Family Court, Jehanabad.
06/03/2023