

IN THE COURT PRINCIPAL JUDGE, FAMILY COURT, JEHANABAD

MAINTENANCE CASE NO. 21 OF 2021

(Smita Kumari V/s Saket Kumar)

O R D E R

24.03.2023

1. A petition dated 09.01.2023, under section 24 of the Hindu Marriage Act, 1955, has been filed on behalf of the applicant namely, Smita Kumari, for grant of interim maintenance from her husband / opposite party namely, Saket Kumar wherein it has been submitted that the petitioner / applicant is legally married wife of opposite party who subjected her to cruelty and harrassment by various ways. Further, the parents of petitioner / applicant and well wishers, made umpteen efforts to mediate and settle the matter but her husband / opposite party is not ready to abide by the conditions of living together as husband and wife and on 02.04.2021, externed her too from her matrimonial house. Thereafter, on 06.05.2021, the petitioner / applicant submitted her written application before the Mahila PS Jehanabad and on the basis of which, Jehanabad Mahila PS Case No. 23 of 2021 for the offence punishable under section 498A of the IPC, was registered against her husband / opposite party. The opposite party is a Govt. Employee in Indian Railways and presently posted at Solapur Railway Station and drawing a handsome salary of about Rs. 50,000/- per month. Besides that, he has also got landed property at his native village Newari, PS Makhdumpur, Distt. Jehanabad. On the other hand, the petitioner / applicant has not got sufficient means to bear her daily needs and expenses and after being ousted from her matrimonial house, the petitioner / applicant is leading the life of destitute at her *naihar* at village Hamse Bigha, PS Parasbigha, Distt. Jehanabad hence, it is prayed to grant her interim maintenance of about Rs. 15,000/- per month from her husband / opposite party, from the date of filing of the instant maintenance case.

2. The instant maintenance case has been filed on behalf of the petitioner / applicant namely, Smita Kumari on 01.09.2021, and the same has been admitted by this court on 23.01.2021. Thereafter, the case record was fixed for appearance of both the sides but in the meantime, a petition

under section 24 of the Hindu Marriage Act, has been filed on behalf of the petitioner / applicant to grant her interim maintenance from her husband / opposite party to which the opposite party had been directed to file rejoinder on his behalf. Further, in spite of directions and several adjournments, the opposite party did not file any rejoinder on his behalf hence, he was debarred from filing rejoinder on his behalf.

3. Having heard the learned counsel appearing on behalf of the petitioner / applicant and on perusal of case record, it transpires that the petitioner / applicant is legally wedded wife of opposite party and having filed the petition dated 09.01.2023, it is prayed on her behalf to grant her interim maintenance of about Rs. 15,000/- per month, from the date of filing of the instant maintenance case, from her husband / opposite party who is a Govt. Employee in Indian Railway having sufficient means to bear the daily needs and expenses of his wife / applicant but intentionally and deliberately, he is abstaining from his duties.

4. 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."*

5. 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.

6. Considering the entire facts and circumstances of the case, materials

available on the record as well as the prayer made on behalf of the petitioner / applicant, the petition dated 09.01.2023, filed on behalf of the petitioner / applicant, under section 24 of the Hindu Marriage Act, 1955, for grant of interim maintenance from her husband / opposite party, is hereby allowed.

7. 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 opposite party namely, Saket 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 petitioner / applicant, from the date of passing of this order. This amount is to be deducted from the salary account of opposite party and to be credited in the applicant's account. The opposite party is further directed to pay the above-said amount of interim maintenance to the petitioner / applicant, 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 a copy of this order be forwarded to the DRM Solapur, Central Railways, for information and needful.

Put up this case on, for further proceedings.

Dictated



Principal Judge,
Family Court, Jehanabad.

24/03/2023