

KABK210007592024



**IN THE COURT OF ADDL. CIVIL JUDGE & J.M.F.C.,
AT: MUDHOL.**

PRESENT:

Smt. SARASWATI HOTAKAR.,

LL.B., LLM.,

Addl. Civil Judge & JMFC., Mudhol.

Dated this the 22nd day of October- 2024

Crl.Misc. No.208/2024

Petitioner/s:

Smt. Rajeshwari W/o Rajesh Ihole.

-V/s-

Respondent/s:

Shri. Rajesh S/o Gopal Ihole.

I.A.No.I

Applicant/Petitioner/s:

Smt. Rajeshwari W/o Rajesh Ihole.
Age: 45 years, Occ: Household work,
C/o Shankar H. Pujari, H.No 663,
Near Bus stand, Mudhol, Tal: Mudhol.

-V/s-

Opponent/Respondent/s:

Shri. Rajesh S/o Gopal Ihole.
Age: 45 years, Occ: Business,
R/o: B-201 Belan Shri. Samrth Krupa,
C.H.S.L. 90 Foot Road, Pantanagar,
Gatakopar East, Mumbai-400075.

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Applicant by Sri S.B.J, Advocate
Respondent by Shri M.S.M., Advocate

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::ORDER ON I.A.No-1::

The petitioner has filed this application U/s.125 of Cr.P.C seeking interim monthly maintenance of Rs.25,000/- per month towards her maintenance from respondent.

2. In the affidavit annexed to I.A.No.1, the petitioner has contended that, the respondent is her husband and she is not having any source of income for her livelihood, she needs Rs. 25,000/- PM towards her food, clothing, medicine, education etc and the respondent is having sufficient means to provide Rs. 25,000/- PM towards her maintenance. Hence, on these and other grounds prays to allow the application.

3. Per contra, the respondent has appeared through his counsel and filed detailed objections to main petition and memo to considered the objection of main petition as objection to the I.A.No.I. In the objection respondent has contended that the petitioner is the 2nd wife of the respondent their marriage was solemnized on 12/12/2018. Further contended that the 1st wife of the respondent was died due to brain stroke. 1st wife of respondent and respondent had two female children and

respondent had old aged parents. Thereafter he married present petitioner, after the marriage she came to the matrimonial house to lead marital life with respondent and they led happy marital life for some days, after that the petitioner started ill-treating the respondent, his children's and also his old aged parents. Further contended that the petitioner used to pick up quarrel with the respondent without any reason and she herself as gave mental harassment to him. So rest of the facts narrated in the petition need not be considered. The I.A is not maintainable in the eye of law. On these grounds prays to reject the application.

4. On the basis of above pleadings, the following points arise for my consideration;

Point No-1: Whether petitioner is entitled for interim maintenance of Rs.25,000/- per month?

Point No.2 : What order?

5. Heard the arguments.

6. Perused the materials available on record.

7. My answers to the above points are as under:-

Point No1 : In the Partly Affirmative;

Point No.2 : As per final order for the following ..

:: REASONS::

8. Point No.1:- Petitioner has filed this petition U/sec. 125 of Cr.P.C seeking monthly maintenance of Rs. 40,000/- from the respondent from the date of this petition.

9. The petitioner in her petition contended that she is the legally wedded wife of respondent and their marriage was solemnized on 12/12/2018 as per the customs prevailing in their religion. After the marriage, she started to reside with the respondent and lived for a period of 3 years after that the respondent with the instigation of his parents started to cause harassment on her and also falsely stated that the petitioner is not mentally sound woman and on one day he has took the petitioner to her parental house at Mudhol and left her. Despite of several phone calls and requests, the respondent did not took back the petitioner to his house, the efforts made by elderly persons to unite the respondent and petitioner are went in vain and the respondent did not heed the request made by the elders as well as petitioner and her parents. The respondent has also filed divorce petition before Hon'ble Family Court Mumbai alleging false grounds. Since the petitioner is not having any source of income and she is totally depending upon the income

of respondent she has prays to award interim maintenance of Rs. 25,000/- PM from the respondent as the respondent is getting monthly income of Rs. 1,00,000/- by doing logistic business and he is able to provide maintenance as claimed by her. The respondent by filing objections to main petition, admitted the relationship with petitioner but denied the contention that he has left her in her parental house and also denied the allegation of harassment. The petitioner herself has given harassment to respondent and she herself without any cause used to pick up quarrel with the respondent and his old aged parents. Further contended that despite of request the petitioner did not joined the matrimonial house, when she has refused to join and deserted him then only he has filed divorce petition before the Hon'ble Family Court Mumbai. Further contended that he is not getting income of Rs. 1,00,000/- and petitioner is not in need of Rs. 25,000/- PM towards her maintenance. The respondent has further contended that himself and his family members even though taken good care of petitioner, she herself caused the harassment, picked up quarrel for silly reasons. Further the respondent has given Rs. 15,00,000/- to relatives of petitioner for their business as per the demand made by petitioner. Even

though the respondent listened all the words of petitioner, the petitioner without any cause doubted the character of respondent and abused him in filthy language and she herself left the matrimonial house without any cause. The respondent is having obligation to maintain his old aged parents and his two female children's and he has given Rs. 15,00,000/- to petitioner's relatives by obtaining loan and also he has obtained 45 lakhs loan for his household expenses. Hence, he is not liable to pay any maintenance as prayed by petitioner.

10. In support of her case, the petitioner has produced some documents such as Adhar Card of Petitioner and Copy of Petition A No 3388/2022 of Bandra Family Court Maharashtra.

Per contra, the respondent has not furnished any documents to substantiate his contentions at this stage.

11. In compliance with the judgment of Hon'ble Apex Court in the case of Rajanish Vs. Neha and others, both the parties have filed their affidavits. The petitioner in her affidavit at serial No 5 she has mentioned her date of marriage as 12/12/2018 and date of separation as 03/01/2022 and educational qualification is 2nd PUC and her monthly expenditure is of Rs. 25,000/- and at

column B serial No 1 in respect of particulars pending litigation between the parties the petitioner has mentioned M.C No 52/2024. At column No I serial No 1 in respect of educational qualification of spouse is mentioned as BE Engineering and at column No 2 the earnings of spouse is mentioned as Rs. 1,50,000/- PM and at serial No 3 in respect of accommodation of spouse is mentioned as own house and at serial No 4 in respect of assets and liabilities of spouse is mentioned as one flat in Bombay. On the other hand the respondent has filed his affidavit. The respondent in his affidavit at A column serial No 6 he has mentioned his date of marriage as 12/12/2018 and date of separation as on 17/11/2021 and his monthly expenditure is of Rs. 35,000/- and he is doing private job and earning Rs. 50,000/- per month and also mentioned as he is suffering from Heart decease. On careful perusal of the information provided by both the parties, it is not disputed that the petitioner is the wife of respondent and also it is not disputed that she is residing separately from the respondent and also on perusal of the information as mentioned above it can be seen that the respondent has not made any provision for maintenance of petitioner. As per the information provided at column No F serial

No 3 in the affidavit of respondent, he himself stated his monthly income is of Rs. 50,000/- but the contention of the respondent is that he is having obligation to look after his old aged parents and his two girl children and also he is having Rs. 45 lakhs loan and also he is suffering from Heart decease and for this reason he is not bound to provide monthly interim maintenance of Rs. 25,000/- to the petitioner.

12. Considering the pleadings of both parties, at this stage, whatever the counter allegations made by the parties cannot be considered at this stage and those contentions need to be decided during trial. Sec. 125(1) of Cr.P.C. has conferred the powers to pass an interim order on the basis of application filed by the petitioner, if the court is satisfied. Therefore, the court can order for interim maintenance without considering the averments of the objections by the respondent. The petitioner has not produced any documents to show that respondent is having monthly income of Rs. 1,50,000/-. But at the same time the respondent being the husband is liable to provide for the basic necessities of his wife and respondent being husband, his having moral and legal duty towards his wife and children to look after them, further the respondent being the husband, he

cannot escape from bounden duty by giving vague reasons. Therefore considering the status of parties and also cost of living in now a days this court is of the opinion that if the maintenance of Rs.4,000/- per month to the petitioner is awarded, it will meet the ends of justice. Therefore I answer **Point No.1** in partly Affirmative.

13. Point No.2: In view of the discussion made above and findings given on Point No.1, I proceed to pass the following...

: O R D E R :

I.A.No.1 filed by the petitioner U/sec.125 of Cr.P.C is partly allowed.

Accordingly, petitioner is entitled for interim monthly maintenance of Rs.4,000/- (Rupees Four Thousand) from respondent from the date of application.

Respondent is hereby directed to pay the interim maintenance of Rs.4,000/- to the petitioner from the date of application till further orders.

Further Respondent is directed to pay the said interim maintenance within 5th day of every month.

(Dictated to stenographer directly on computer, typer by her, script corrected, signed and then pronounced in the open court by me on this the **22nd Day of October-2024**)

(Smt. SARASWATI HOTAKAR)
Addl. Civil Judge and JMFC,
Mudhol.