

ORDER ON INTERIM APPLICATION

The Petitioner has filed this petition against the Respondents under section 125 of code of criminal procedure.

2. The Petitioner has filed interlocutory application Under Section 125(1) of code of criminal procedure, praying to add interim Order to direct the respondent No.1 to give interim maintenance of Rs.40,000/- per month to the 1st petitioner and interim maintenance of Rs.50,000/- to the 2nd petition to pay the school admission fee.

3. The Petitioner has filed Affidavit in support of interlocutory application. The Petitioner has produced Affidavit of Assets and Liabilities. The petitioner has produced the Marriage Photographs, Aadhaar cards of the 1st and 2nd petitioner, Acknowledgement issued by Yagati Police, RTC Extracts which standing in the name of the father of 1st respondent i.e., 3rd respondent. Xerox copy of working certificate of the respondent. Copy of Fee receipt issued by Gurukula Public School.

4. The Petitioner in her affidavit has contended that, she is the legally wedded wife of the Respondent No.1, and the petitioner No.2 is their son. The respondent No.2 to 4 are the family members of 1st respondent. The marriage of 1st petitioner and 1st respondent was solemnized on 29.04.2016 at Mahalakshmi Layout, Ganapathi Temple, Bangalore. The father of the 1st petitioner has organized reception on 15.05.2016 at their village Kamanakere and has given 50 grams of gold bracelet, gold chain, gold ring and also given 100 grams of gold chain and bangle to the petitioner and spent huge amount for that function.

5. It is further contended that, the 1st respondent taken the 1st petitioner to Bangalore to lead a marital life. At that time the father of the petitioner has given advance amount to arrange the rented house and also given cash amount of Rs.2,00,000/- to lead marital life. Till 4 months the petitioner and 1st respondent lived happily. Later, the respondent taken the petitioner to her parents house. The parents of the petitioner has treated them very well in spite of that, the respondent about two to three times came back to the village by leaving the petitioner in Bangalore to see his parents. After that, by getting influenced by the respondent No.2 to 4, informed the 1st petitioner that, at the time of marriage the parents of the petitioner has not given any amount as dowry and asked her to tell to her parents to given him a car and cash amount to purchase a site in Bangalore. The other respondents instigated the 1st respondent to received the dowry. Later, when the petitioner conceived the respondent left her in her parents house and came back after the birth of the child as a formality. Later the respondent No.2 to 4 tortured the petitioner to bring dowry. As such she lodged complaint against them. The respondents by making false promise asked the petitioner to take back the complaint given against them and broke her trust and taken the gold ornaments given by her father. And send her back to her parents house without providing any basis necessities. The petitioner have no source of income and she is not economically strong to

bear the expenses of herself and her child. Now, the 2nd petitioner is aged 6 years and they have to make admission in the school and she cannot bear the expenses. Hence, prayed to allow the interim application and direct the respondent to pay interim maintenance.

6. Per contra, after issue of notice the respondent appeared through his counsel and filed statement of objection by denying the allegation made by the petitioner and contended that, the marriage was solemnized between the 1st respondent and petitioner on 29.04.2016. The family members of the respondent No.1 has arranged reception after their wedding. The 1st petitioner and 1st respondent loved each other and got married. After the marriage the 1st respondent has gifted 70 grams of gold to the petitioner and his child 2nd petitioner. In-spite of that the 1st petitioner use to fight with the 1st respondent for silly matters. And use to go back to her parents house and use to threaten the 1st respondent as she commit suicide. The respondent use to tolerate all the torture of the petitioner due to love and affection toward the petitioner. But the petitioner showed negligence towards the 1st respondent. The respondent tried to talk about this matter with the petitioner but she abused him and went back to her parents house. The 1st petitioner at the time of house warming function of their house has taken Rs.5,00,000/- from the respondent to purchase the Vesalius and given it as gift to her parents house.

7. He further stated that, he is working as driver in Bangalore. The 1st respondent worked at True Medix Private company. But, at that time the petitioner had given complaint against him. Hence, he could not be able to concentrate towards his work. As such he got fired from his work. Hence, now he doing a driver job. The petitioner had filed a criminal case against the 1st respondent before 3rd JMFC, and the same was compromised and they both started to live together in Bangalore. The 1st respondent has opened a store by name Vaibhav Mart and the same was run by 1st petitioner. But, during that period also the 1st petitioner again and again use to go to her parents house as monthly once. As a result due to lack of maintenance of said store the 1st respondent suffered loss of Rs.5,00,000/-. Hence, the said store was closed. He has not shown any negligence towards the petitioner but the brother and parents of the petitioner has instigated the petitioner to live the house by lodging one or another complaints against the respondents. Hence, prayed to reject the application with costs.

8. Heard both counsels. Perused the material available on record.

9. The following points arise for the consideration of this court.

1. Whether the petitioners are entitled for the maintenance of Rs.40,000/- per month and amount of Rs. 50,000/- towards the education of 2nd petitioner?

2. What order?

10. My finding to the above said points are as under:

Point No-1 :- partly in affirmative

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

REASONS

11. Point No-1:- The relationship between the parties is not disputed. It is the allegation of the petitioner that, the respondent No-1 by the instigation of the respondent No-2 to 4 use to give mental torture to the petitioner by demanding dowry. Hence she was constrained to live in her parents house along with the child. The respondent is working as lab technician but not tried to provide basic necessities to the petitioner.

12. Per contra the respondent has denied the allegation and contended that, the petitioner herself neglected him and he is working as a driver. He have aged parents. The respondent by compromising the matter bring the petitioner to his house but again went back to her parents house.

13. Upon considering the materials on record, it is admitted that, the petitioner No-1 and the respondent No-1 are the husband and wife. The question with regard to whether the petitioner herself neglected the respondent

No-1 and left the matrimonial life or whether the respondent No-1 showed negligence and subjected he to mental torture will be decided after full fledged trial. By considering the fact and circumstances of the case, this Court opines that the petitioner has made out a *prima facie* case to grant interim maintenance. Though, the petitioner has claimed an Add interim relief of Rs.40,000/- per month to her towards maintenance and amount of Rs.50,000/- to 2nd petitioner for educational expenses. The petitioner has produced assets and liability affidavit by mentioning the monthly income of respondent as Rs.1,00,000/- per month but the respondent has filed his assets and liability affidavit and stated that, he is earning amount of Rs.10,000/- by doing coolie work. Though the petitioner has claimed the respondent is earning Rs.1,00,000/- per month but not produced any document to show that he is earning that much amount per month. However, keeping in mind the avocation of the respondent this Court opines that for the survival of the petitioner and for the education of 2nd petitioner, it is fit case to pass *add-interim* order to the extent indicated below. Therefore, I pass the following :

ORDER

Interim Application u/s 125(1) of Cr.P.C.
filed by the Petitioner is hereby partly
allowed.

Respondent No.1 is hereby directed to pay a sum of Rs.3,000/- per month towards interim maintenance of the 1st petitioner and amount of Rs.2,000/- per month towards interim maintenance of the 2nd petitioner. The respondent No.1 is also directed to pay the school fees of Rs.10,000/- before this court.

This order is subject to modification and alteration in case of changed circumstances and commences from today and continued till the disposal of main petition.

For petitioner evidence Call on 25.07.2024.

Sd/-
(Smt. Amrin Sultana)
I Addl. Civil Judge and JMFC,
Kadur.