

:: ORDER ::

The petitioner has filed an application under Section 125 of Cr.P.C., seeking for interim maintenance of Rs.50,000/-. It is further contended that, the petitioner is legally wedded wife of respondent and their marriage was solemnized at Arisinaghatta Village in the presence of family members and elders of the rival family. After the marriage petitioner started to reside with respondent in a matrimonial house. Due to the marital relationship they have one son by name Rudresha M.C., and who as demised. Thereafter the respondent started to torture the petitioner in physically and mentally and also completely negligent the petitioner and thereby, the petitioner has started to live in her parent's house since from 2008 at Hosamalali Village and the respondent not given any monetary assistance to the petitioner till today and the petitioner due to fracture suffering from physical disability and unable to work and she is not in position to earn for her livelihood. It is further contended that, the respondent by professionally doing an agriculture and having Acrea nut garden to an extent of 1 acre 10 guntas in Sy No.75/6 of Arasinghatta Village and the respondent is 2nd marriage with another woman by name Veena and with an intention to avoid to pay maintenance amount to the petitioner, intentionally executed Gift deed in favour of the 2nd wife by name Veena with respect to the Areca nut garden land bearing Sy No.54 of Arasinghatta Village measuring to an extent of 3 acres 32 guntas standing in his name and the respondent is earning yearly income of Rs.40,00,000/- from the agriculture and also having other source of income and the petitioner is need of Rs.50,000/- per month to lead her life i.e., food, cloth, medicine and medical treatment and also other daily expenses and the petitioner due to her physical disability unable to doing any kind of work and she has not having any source of income. Hence, petitioner without having any other

alternative knocked the doors of justice by filing this interim application. Therefore, prays to allow the interim application.

2. upon service of notice the respondent appeared through his counsel and filed statement of objection wherein denied the averments mentioned in the application and the application filed by the petitioners is not maintainable and same is liable to be dismissed. It is further contended that, the respondent is not having sufficient income to pay the interim maintenance to the petitioners. Hence, prays to dismiss the present petition.

3. On the basis of the averments made in the application following points arise for my consideration:

1. Whether the petitioners have made out sufficient ground to allow the accompanying application?

2. Whether the petitioner has prove that respondent is entitle to pay interim maintenance an amount of Rs.50,000/- per month to them?

3. What order?

4. Heard both sides.

5. My answers to the above points are as under:

Point No.1 : Affirmative.

Point No.2 : Partly in the affirmative.

Point No.3 : As per final order for the following:

: REASONS :

6. Point No.1 to 2 :- I have heard the learned counsel for the Petitioners on interim application and perused the petition averments. The petitioner filed the petition U/s 125 of Cr.P.C seeking maintenance and also filed interim application U/s 125 of Cr.P.C seeking the interim relief directing the respondent to pay a interim maintenance of Rs.50,000/- per month.

7. On perusal of the documents regarding granting of interim order the petitioners have made out prima-facie case. While awarding the interim maintenance the court has to look into the actual income of the respondent. The obligation of payment of maintenance attached to the respondent from the date of marriage. The wife is entitled for maintenance whether the husband is possessed of any property or not. The petitioner stated that, the respondent has neglected to maintain her. Looking into the circumstances and status of the parties and evidence on record it is just and proper to award interim maintenance of Rs.5,000/- to the petitioner. This amount is reasonable one and not an exorbitant. The petitioner needs amount for her food, clothing, nourishment and other needs of an aging woman. This amount is reasonable amount in these escalated state of affairs and it is not unreasonable. Thus the petitioner is entitled for Rs.5,000/- per month from the respondent. In the touch stone of the above said reasons this court answered point No.1 in affirmative and point No.2 partly in the affirmative.

8. Point No.3: For the above reasons, this court proceeds to pass the following:

ORDER

The interim application filed by the petitioner U/Sec. 125 Cr.P.C. is hereby partly allowed.

The respondent is hereby directed to pay Rs.5,000/- per month to the petitioner as maintenance from the date of petition till the date of disposal of the present petition.

Call for petitioner evidence R/by 09.05.2024.

PCJ., Honnali.