

**ORDER ON APPLICATION FILED U/S 125(1)(A) OF CR.P.C**

The marriage between the parties has been solemnized on 11.05.2018. After the marriage both parties started living together and started to lead their matrimonial life initially for couple of years with pleasure and happily. There are no issues out of their wedlock. Further, the petitioner was compelled to leave the matrimonial house by unbearable torture at the hands of the respondent. Further, it seems she has left her matrimonial house and living in her parental house from the past 3 years. It is further alleged that, at the marriage the respondent was offered cash of Rs.50,000/-, 100 grams of gold and other house hold appliances. In spite of marriage has been performed to the satisfaction of the respondent and his family. The respondent further started his greediness in seeking the dowry from the parental home of the petitioner due to the unsustainable cumbersome and terrible torture of the respondent, she has left her matrimonial house and she has been living in her parental home thence from 2018. Several panchayath held between the parties, however the panchayaths neither came to help the petitioner and to reconstitute the conjugal matrimonial life of the petitioner and the respondent. Further, she is finding herself very hard and difficult to eke her life by depending upon her parents for her food, cloth and shelter. Further it is said that, the respondent

is working in a company and he is earning Rs.30,000/- P.M. and also he is having income from his agricultural activities and landed property. In all the respondent is having more than Rs.3,00,000/- income deducting the expenditure. Hence, she is in desperate need of Rs.15,000/- P.M. to meet her expenses and to lead her life till the disposal of the petition.

The respondent filed his written statement of objection by admitting the marriage of the petitioner with him and he is refuting the other allegations made against him in the statement of petition. Further according to the respondent, the petitioner herself deserted the respondent without genuine reasons and she was pressurizing the respondent to live together separately and she was always abusing the respondent with lousy words. He has not tortured the petitioner as per the allegations stated in the petition and he has not received any marital dowry and other items in the marriage. The petitioner herself neglected to look after the aged parents of the respondent and in a MC petition registered by the respondent before the Hon'ble Senior Civil Judge, K.R.Nagar, was decreed. Wherein the petitioner was directed to join the house of the respondent to lead marital conjugal life. Further he has made counter allegations in the statement of objections that, the respondent is having responsibility of his aged parents and no landed property is standing in the name of respondent and he has to take care of his parents out

of meager amount that he is earning. Hence, he has prayed for dismissal of the application.

On perusal of the documents and the oral submissions of the counsel for the parties to the petition, the marriage between the parties to the petition is not under dispute and in respect of the further allegations of torture and deserting the petitioner from her matrimonial house and in respect of difficulties of the petitioner to eke her life is concern which is denied in the statement of objections. However, it is clear and apparent that, the respondent has preferred MC petition No. 4/2022 before Hon'ble Senior Civil Judge, K.R.Nagar. For restitution of conjugal rights U/s 9 of Hindu Marriage Act 1955. After service of notice, the petitioner Namratha did not appear before the Hon'ble Senior Civil Judge, K.R.Nagar. Thereafter, on 09.09.2022 the Hon'ble Senior Civil Judge, K.R.Nagar, has passed an order wherein the petition filed by the husband has been allowed and the respondent was directed to join the matrimonial house of her husband and to lead marital conjugal life, and one month time was also given to the petitioner to go and join her husband who is the respondent. In arriving the conclusion and allowing the petition it is held that, the petitioner has left her husband without reasonable excuse and she has withdrawn from the society of the respondent husband and hence she was directed to join the house of the petitioner within a month.

Further, keeping in mind in respect of the order passed by the Hon'ble Senior Civil Judge, K.R.Nagar, if we go through the provision of Order 125(4) of Cr.P.C. it is clearly mentioned in the provision that, no wife shall be entitled to receive any allowance in the form of maintenance, either interim maintenance or the expenses of the proceedings from her husband in the following instances.

- 1) If the wife is living in adultery,
- 2) If the wife refuses to live with her husband without any sufficient reasons.
- 3) If the wife is living separately by mutual consent.

Here in the present case on hand, though the petitioner has proved her marriage with the respondent as admitted by the respondent, the decree came to be passed by the Hon'ble Senior Civil Judge, K.R.Nagar, in MC No. 4/2022 in the absence of the petitioner wife herein. Further, though she had no opportunity to put forward the case or to lead her evidence. When the Hon'ble Senior Civil Judge, K.R.Nagar, has passed an order by directing the wife to lead her matrimonial house on arriving a conclusion that, the petitioner has left the matrimonial house of the respondent without any reasonable grounds, certainly claiming maintenance during the persistence of the order passed by the Hon'ble Senior Civil Judge, K.R.Nagar, is admissible and this court cannot take the

divergent view against the order of the Hon'ble Senior Civil Judge, K.R.Nagar, in showing lenient approach towards petitioner and to grant interim maintenance towards the petitioner for her day today expenditures. Hence, without any expression on the merit or without going into the merit of the petition, it is just and appropriate to let the parties to the petition to conduce and an adequate opportunity to submit their case and lead their evidence to elicit in proof of their respective version as per their pleadings. Presently, the petition in seeking interim maintenance from the respondent who has succeeded to get an order U/s 9 of the Hindu Marriage Act will have series impact on the present petition. Hence, at this juncture there is no impediment in arriving and drawing a conclusion that, the petitioner fails to make out the application in seeking interim maintenance. Hence in the opinion of this court, the petition is sans merit and is liable for dismissal. However the petitioner is at liberty to elicit the proof in respect of her pleadings enumerated in the statement of petition at the later stage of trial. Hence, this court proceeds to pass the following:

**ORDER**

The application filed by the petitioner U/s 125(1)(A) of Cr.P.C. is hereby dismissed.

(Chandan.S)

C.Mis 650/2022

Addl. Civil Judge & JMFC,  
K.R.Nagar.