

INTERIM ORDER ON APPLICATION FILED BY
THE PETITION U/S 125(2) OF CR.P. C

This application is filed by petitioner against the respondent praying for interim maintenance of Rs.30,000/- per month stating that she is unable to maintain herself. That the respondent is having more number of landed properties and barren license and earning Rs.20,00,000/- per year. Hence, prayed to grant interim monthly maintenance.

2. The respondent has filed his objections to the main petition and adopted the same as objections to this application. In which, the respondent has denied the averments of the petition and stated that the respondent is making Galata with him and left matrimonial home. That the respondent is looking after the petitioner and his son. That he has raised loan for the education of his son and also for purchasing bike. The respondent is having loans to be paid to the bank as well as various private persons. That the Sy.No.85/16 and Sy.No.46/1, the petitioner and her son have got share from the respondent for their maintenance. Hence the petitioner is not entitle for maintenance.

3. Heard both sides.

4. The petitioner in support of her case has produced the RTCs stands in the name of respondent.

5. So far as Section 125 of Cr.PC is concerned, If any person having sufficient means neglects or refuses to maintain his wife unable to maintain herself, a Magistrate of the first class may, upon proof of such neglect or refusal, order such person to make a monthly allowance for the maintenance of his father or mother.

6. On perusal of RTCs produced by the petitioner prima facie shows that the lands stand in the name of the respondent, which also prima facie establishes that the respondent has sufficient income. In order to show that the petitioner and her son have got share in the property of respondent for their maintenance, the respondent did not produce any document. In this case the respondent does not deny the relationship.

7. The ***Hon'ble Supreme Court of India in (2021) 2 SCC 324 in Rajnesh V/s Neha and another,*** has made an observation that *“the main object of maintenance is a measure of social justice as envisaged under the constitution of India to prevent wife and children from falling in to destitution and vagrancy.”*

8. In a case between ***Chathurbuj V/s. Sita Bai in AIR 2008 SC 530, the Hon'ble Supreme Court*** has held that *“Mere having income by wife is not sufficient.*

What is necessary is that she herself should be in a position to maintain her, not much below the status which she was used to at her husband's place."

9. In view of the above, the contention that the petitioner and her son have already got the share in the properties of respondent and they have got income for her maintenance cannot be believed at this preliminary stage. Hence this court is of the opinion that the petitioner has made out case for grant of interim maintenance. Hence the following;

ORDER

The application filed under Section 125(2) of Cr.PC is partly allowed.

The respondent is hereby directed to pay interim maintenance of Rs.3,000/- per month to the petitioner from the date of petition till further order.

Addl. Civil Judge and JMFC,
Periyapatna