

ORDERS ON EX-PARTE INTERIM MAINTENANCE

The instant interim application is filed by the petitioners under Section 144 of B.N.S.S seeking to grant an interim order for maintenance of total sum of Rs.20,000/- per month each to the petitioners till the disposal of the said case to meet their basic needs and necessities.

2. In an affidavit sworn in by the petitioner No.1 who is also a minor guardian of petitioner No.2, it is stated that she is legally wedded wife of the respondent and her marriage with the respondent was performed on 09/04/2023 as per Hindu rites and customs and the entire expenses of the marriage of about sum of Rs.15,00,000/- was borne by her parents. It is further stated that the respondent looked after her for one month and out of their wedlock, petitioner No.2 was born but the respondent failed to look after them with love and affection and after few years of marriage, the respondent and his mother started harassing her physically and mentally and abused in vulgar language and totally neglected to maintain her and petitioner No.2 who is their daughter. The respondent is working in Indian Navy and earning more than sum of Rs.70,000/-per moth and also his family owns sufficient properties. But she has no source of income to maintain and lead the life and they are in need of basic necessities like food, shelter, education, medicine etc. Hence, prayed to grant interim maintenance.

3. In support of the said application, she has also produced the legal notice issued by the respondent, wedding invitation, wedding photos and photo copies of aadhaar cards of petitioners, passbook of petitioner No.1. She has also filed an affidavit of assets and liabilities in compliance with the Judgment passed in Rajnesh Vs. Neha rendered by Hon'ble Apex Court.

4. On perusal of averments of the petition, I.A.No.I which is supported with the affidavit and the documents produced by the petitioner, there appears no dispute in respect of the marriage of the petitioner No.1 and the respondent and however, it is well settled law that in the proceedings of maintenance cases, strict proof of marriage is not necessary.

5. Section 144(1) of Cr.P.C has conferred the power to order such person to make a monthly allowance for the interim maintenance of his wife, child and parents which the magistrate considers reasonable.

6. It is needless to emphasize that it is primary and foremost duty of the husband to maintain his wife and children. The husband cannot shirk from his responsibilities under any guise. This proposition is bolstered by the decision of Hon'ble High Court of Karnataka reported in **2010(1) KKCR 319 (K.Kumar V./s Smt. Leena and Another)**, wherein it is held as under:

“ The framers of the Constitution of India had in their mind to provide equality of status,

social justice and therefore, the status and social justice have been incorporated in the preamble of the Constitution. By an amendment to the Constitution, the expression "Sovereign Socialist Secular Democratic Republic was introduced and the expression "Socialist State" means to eliminate inequality in income and status and standards of life. The commencing words of the Constitution represent "WE, THE PEOPLE OF INDIA....." is only the capital words and even while naming the highest authorities under the Constitution, the capital words are not used to indicate that the people of this Country are given more prominence than any Constitutional authorities functioning under the Constitution of India, and therefore the people of this country are entitled to the benefits provided in the Constitution. The provisions of Constitution will have to be interpreted not in the background of the western culture, but will have to be interpreted in the context of ethics, moral values, happiness of one and all which culminated into the composite culture that the people of this Country have inherited

since the past. So, looking to the culture of this Country, ethics and moral values introduced therein impose an obligation on the husband to maintain his wife and children as they have to be kept in the same status as that of the husband”

7. In view of principles emerging from the said decision, there is no scintilla of doubt that it is the obligation of the respondent to maintain the petitioners who is his wife and child respectively. But the petitioner has not produced any document to show the income of the respondent but however that does not disentitle her from getting entitled for interim maintenance but she has stated in her affidavit that the respondent is working in Indian Navy and earning handsome salary of more than Rs.70,000/- per month. However, the question of actual income earning by the respondent requires full pledge trial. Hence, at this stage, on considering overall materials placed on record, this Court has prima facie satisfied that the respondent has neglected to maintain his wife and minor child. As a result, the petitioners are entitled for an interim maintenance. As such, this Court considering the facts and circumstances of the case deems it fit to grant ad-interim ex parte maintenance to the petitioners to meet out their basic necessities and expenses and also by taking into notice of the inflation in prices these days, it is just and proper to award the reasonable amount of maintainable. Therefore, **this Court proceeds to pass the following -**

ORDER

The Respondent is hereby directed to pay a sum of Rs.15,000/- per month to the petitioners towards interim maintenance in order to meet basic necessities of the petitioners from the date of this order till disposal of the present I.A or until further orders whichever is earlier.

Issue notice on IA and main petition to the Respondent if PF and necessary copies are furnished.

Sd/-

C/c. Addl. J.M.F.C., Ankola.