

M – 223/2022

Order dated :-

14.03.2024

Today is fixed for interim order and evidence.

Both the sides are present by filing hajira.

Heard the Ld. Advocates for both sides in full.

Perused the materials on records and affidavit of assets and liabilities and documents filed by both sides.

Now, the record is taken up for passing of the interim order.

The contention of the Petitioner is that she is the legally married wife of O.P. and she has filed a petition u/s 125 Cr.P.C claiming maintenance for herself on the ground that she is staying on the mercy of her parents and the O.P is not paying any maintenance towards herself. The specific contention is that their marriage was solemnized 30.09.2020 as per Hindu rites and customs and their marriage was an outcome of love affairs. Their marriage was also registered. The petitioner contended that she was married earlier with one Manoj Das, who died 6 years ago and she has a male child from her first marriage. In spite of that the OP married her out of love. After marriage, she was pressurized to bring money from her paternal home. As she denied the same, she was subjected to torture both physical and mental. Even she was denied proper food and clothing. Several times, he drive her out from the house. But in hope of better future the petitioner continued her conjugal life. On 01.03.2021 at about 5:00 PM pressurized her to bring money from her paternal home and thereafter drive out her with single attire from the house after inflicting torture upon her. Since then she has been living at her parental home. The OP is a manager at Patton factory situated at Birshibpur Growth Center and he earns Rs. 20,000/- per month. The OP neither inquired about her nor paid any maintenance for her. She has no source of income and she is moving her life with the mercy of other. No single farthing has been provided her by the O.P. The O.P having sufficient source of income has intentionally refused and neglected to maintain the petitioner. On contrary, the petitioner having no income is unable to maintain herself. On the ground, the petitioner needs at least Rs.6,000/- per month for herself for maintenance to meet the day to day expenses in the days of high market price.

By submitting W/O, the O.P. has stated that he acquainted with the petitioner on Social Media/Facebook and the petitioner identified herself as unmarried and talking was going in between them. After one month, the petitioner informed the OP that she was married earlier with one Monoj Das but at present she is a widow. The petitioner did not disclose about her previous son. The OP continued his love affairs with the petitioner. Thereafter, on 30.09.2020 they got married. As the parents of the OP did not accept their marriage, they started residing at Uluberia Dutta para in a rented accommodation. Thereafter, the OP came to know that the petitioner has a minor child namely Mainak Das from her previous marriage and at the time of marriage, she concealed the fact. After knowing the fact, the petitioner along with her child started residing in the said rented accommodation. The OP contended that the petitioner pressurized him to give money to her for sending it to her paternal house and when the OP denied, the petitioner threatened her to implicate him in false case. On 01.03.2021 the petitioner forced him to take possession in the land of his father and on that day, the petitioner along with her minor child went to her paternal home. Several times, the OP tried to bring back the petitioner but went in vain.

She left her matrimonial home as she intentionally refused to continue her conjugal life. Further, this petitioner had tendency to dominate upon the OP and he always is ready to reconstitute his conjugal life. The petitioner being a jory ostager earns Rs.15,000/- per month and she also gets pension from her previous husband's company. Though, the OP is a labour contractor under S & IB Services Pvt. Ltd. Office at Kolkata and earns Rs. 7,803/- per month. He has denied all allegations as raised by the petitioner. He has prayed for refusal of relief.

Heard, considered, perused the materials relied upon both sides including the documents.

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Order dated :-
14.03.2024(Contd..)

Though the O.P has denied all the allegations of the petitioner but the marriage is admitted. It is also not disputed at this stage that the petitioner has been residing with her parents. But there is no single documents from which the income of the OP and the petitioner can be ascertained. Again, though the OP disclosed his monthly earnings is Rs. 7,803/- but at the same, he disclosed his monthly expenses for him and his dependent as Rs. 7,000/- and Rs. 5,000/- totaling of Rs. 12,000/-. So, considering all, this Court finds no ground to refuse the prayer of the petitioner as there are some rifts and disputes between the parties and for which they are residing separately.

Whether the petitioner was subjected to cruelty on demand of dowry, neglected or has left the matrimonial house voluntarily cannot be decided at this stage in the absence of evidence. There are other allegations and counter allegations as well which at this stage in the absence of any evidence cannot be taken into for discussion and consideration. The OP has not denied the marriage, so the first and foremost criteria for awarding maintenance is fulfilled.

At this stage, without delving deep into the allegations and counter allegations, I am of the opinion that it is the incumbent upon the OP to maintain his wife. The OP once admits the marriage, he cannot escape his liability, save and except as provided in the provision which is yet to be proved. The interim maintenance is granted with a view to save the life of the person claimed during the pendency of the proceeding.

Considering the need of the hour, the present socio-economic condition and applying the rule of prudence, with a view to keep the life alive of the petitioner during the pendency of the final disposal of the main application, I am granting a minimum amount of interim maintenance to the petitioner which would be justified for both the parties considering all aspects.

Hence, it is

ORDERED

that the interim application is allowed in part on contest without any order as to costs. The OP is directed to pay Rs.4,000/- per month to the petitioner from the date of filing of this case as interim maintenance payable within 10th day of each succeeding month for which it falls due till the disposal of this case. The arrear amount will be paid within two months from this date.

In default, the petitioner has liberty to put the order in execution to realize the amount as per law.

Thus, the interim application is hereby disposed off.

Let a copy of this order be supplied to the petitioner free of cost.

Fix 07-09-2024 for evidence.

D/C by me

J.M. 2nd Court Uluberia

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