

Cri. Misc. Applicaiton . No.62/2020
Manisha Vs. Vinod.
CNR-MHRT080001732020

Order Below Exh.20

This is a proceeding for maintenance as per section 125 of the Code of Criminal Procedure, 1973 ('the Code' for short). By the present application, the applicant wife is claiming interim maintenance allowances.

02. It is contended that, the applicant do not have any source of income. She is residing in one of the rooms in respondent's house. Till February 2019, the respondent gave her amount of Rs. 3000/- per month. However, then he stopped the payment. The applicant is thus, unable to maintain herself. The respondent is in the service of Bombay Municipal Corporation. He draws handsome salary. As such, the applicant is claiming the maintenance allowances at the rate of Rs. 10,000/- per month. It is contended that, for disposal of the present matter, some time is required. Until such decision, the applicant cannot be starved, as such, she made present application.

03. The respondent has filed reply at Exh. 22 and contested the application. The relation between the parties is admitted. However, according to him, present proceeding is instituted on 13/03/2020. Present application is made on 24/11/2022. This itself shows that, the applicant is not in need of any allowances of maintenance. Admittedly, she is residing in his house. Admittedly, respondent gave the gold ornaments to her at the time of marriage. If she was able to maintain herself since, February 2019, she is able to maintain herself. She works in the agriculture field. Therefore, she able to maintain herself. The respondent does not have means to provide the maintenance allowances, as claimed. Hence, the application is liable to be rejected.

04. Read. Perused. Heard both sides.

05. Learned counsel for the applicant has submitted that, the applicant cannot face starvation until decision of the proceeding. She does not have any means to maintain herself. On the other hand, documents produced by the respondent alongwith his affidavit (Exh. 27) for assets and liabilities would show that, he is drawing salary of Rs. 51,174/- per month. The salary slip annexed with the affidavit Shows that, there is deduction of Rs. 23,628/-. However, it is not made clear as to on what account, such deductions are being made. Considering income of the respondent, the applicant is entitled for maintenance allowances, as claimed by her.

06. Learned advocate for the respondent, on the other hand, has submitted that, present application is made much after filing of the original proceeding. Admittedly, applicant is residing in the house of respondent. Gold ornaments were given to her at the time of marriage. Moreover, there are deductions from the salary of the respondent. He hardly earns salary of Rs. 15,000/- to 16,000/- in hand, per month. He is responsible to maintain other members of his family. As such, the present application is not tenable.

07. There is nothing on record that, whether the applicant works as a labour or in what capacity she works in agriculture field, as alleged. Moreover, there is no specification as to what kind of work she does. Thus, prima-facie it is not made out that, applicant has any separate source of income.

08 Admittedly, respondent is in service of BMC. He earns the salary of Rs. 51,174/- as disclosed by his pay slip for the month of December 2022. There are total deductions of 23,628/-. His net pay is 27,544/-. It shows that, he has sufficient means to maintain his wife i.e. the

applicant who is unable to maintain herself.

09. Only because a wife resides in husband's house or some gold ornaments were given to her at the time of marriage, cannot be a ground to refuse the maintenance allowances. Further, only because, application for interim maintenance is made belatedly, it cannot be rejected.

10. The respondent has not made out that, he has provided any allowances or made any payment to applicant for her maintenance. Thus, it is prima-facie made out that, despite of having sufficient means to maintain the wife, the respondent has willfully refused or neglected to maintain the wife. Hence, the claim for interim maintenance deserves to be allowed.

11. Considering alleged responsibilities of the respondent and his income, it would be just to grant interim maintenance allowances at the rate of Rs. 5,000/- per month for maintenance of the applicant. In the circumstances, it would be just to direct payment of said amount from date of present application i.e. from 24/11/2022. Hence, following order -

ORDER

1. Application is partly-allowed.
2. As per section 125 (2) of the Code of Criminal Procedure, 1973, the respondent Vinod Bhiva Pawar is hereby directed to pay amount of Rs. 5,000/- (Rs. Five Thousand) per month to applicant Manisha alias Alisha Vinod Pawar towards interim maintenance allowances, for her, from the date of present application i.e. from 24/11/2022 till further orders.

Dated : 08.03.2023

(B. D. Tare.)
JMFC Deorukh.

- : C E R T I F I C A T E : -

Judgment/order in (Order below Exh. 20 in Cri. M.A. No.62/2020)

I affirm that the contents of this Pdf file order are same word as per original order.

Name of Stenographer :- S. S. Thaware (Jr. Clerk)

Court Name :- The Court of Judicial Magistrate F.C.,
Deorukh

Date :- 08/03/2023

Order signed by PO. on :- 08/03/2023

Order uploaded on :- 09/03/2023