

**IN THE COURT OF JUDICIAL MAGISTRATE, 1ST COURT,
RAMPURHAT, BIRBHUM**

Misc. Case No. 93 of 2020
CNR: WBBB060006292020

In the matter of
Anjumanara Khatun.....Petitioner
Vs.
Jakir Hossain.....Opposite Party

Present: Sk Alfaz Firdous (J.O. Code: WB 01450)

ORDER DATED 03.07.2024

1. Today's date is fixed for passing Order in respect of the application for interim maintenance filed by the petitioner.
2. The record is taken up for passing Order.

Petitioner's case:

3. It is alleged that the petitioner got married to the opposite party on 18.09.2013 according to Muslim rites and customs. At the time of marriage, the petitioner's father gifted cash of Rs. 50,000/-, gold ornaments and other household articles. After marriage, the petitioner started residing with the opposite party at her matrimonial house and gave birth to a daughter, Sehnaj Parvin, aged 7 years at the time of filing of the present application. After the birth of such daughter, the opposite party and his family members started causing physical and mental torture upon the petitioner in connection with demand of dowry amounting to Rs. 2,00,000/- and finally on 10.09.2019 they drove her away from the matrimonial house. Finding no other option, the petitioner along with her minor daughter took refuge at her father's house. Since then, the opposite party has been refusing and neglecting to maintain the petitioner and the minor daughter.
4. It is further alleged that the opposite party has entered into another marriage with Nurin Khatun on 03.01.2016. The opposite party is able-bodied; he owns

properties and he is an army. He earns Rs. 80,000/- per month; whereas the petitioner has no independent income of her own to look after herself and her minor daughter.

5. Under these circumstances the petitioner has prayed for grant of monthly allowance of Rs. 20,000/- and Rs. 10,000/- towards interim maintenance of herself and her minor daughter respectively from the opposite party during the pendency of this case.

Rival contentions:

6. In the written objection filed by the opposite party all the major allegations leveled against him have been denied. The marriage between the parties and the birth of a daughter from the wedlock have been admitted.
7. It is contended that the petitioner voluntarily went to her father's house on 15.06.2015. The opposite party got terminated from his Army service on 24.01.2024 on the ground of having contracted plural marriage. At present, he does not have any source of income. Further, he is under an obligation to pay equated monthly installment in respect of a loan amount of Rs. 10,00,00/-. He is thus under financial stress and he does not have the capacity to provide maintenance to the petitioner and her daughter.
8. In the light of these contentions the opposite party has prayed for rejection of the instant application.

Analysis:

9. The instant application, the written objection and the affidavits of disclosure of assets and liabilities filed by the parties have been carefully perused and considered.
10. It appears that the marriage of the parties and birth of daughter both are admitted. Whether the petitioner was ousted from her matrimonial home forcibly by the opposite party or she is residing at her father's house voluntarily

are matters to be decided at trial. All the rest of the allegations of the petitioner are issues of merit that will be weighed, considered and determined at the time of final hearing of the case. In the meantime, what is seen from the affidavit of assets and liabilities of the petitioner is that she does not have any independent source of income of her own. She has declared the monthly income of the opposite party to be Rs. 80,000/-. The question of the opposite party's profession and that of his income shall be finally decided upon trial of the case.

11. At this stage, the opposite party has to fulfil the obligation cast upon him by the law of the land with regard to his wife, though estranged, and towards his minor daughter and for that he has to put in a bit of extra effort.
12. It is pertinent to note here that in **Bhuwan Mohan Singh v Meena & Ors.**¹ the Hon'ble Supreme Court of India held that since it is the sacrosanct duty of the husband to provide financial support to the wife and minor children, the husband was required to earn money even by physical labour, if he is able-bodied, and could not avoid his obligation, except on any legally permissible ground mentioned in the statute.

Conclusion:

13. In view of the above analysis, this Court has reached the conclusion that at this juncture the petitioner and her minor daughter should be granted some amount of monthly allowance during the pendency of this case in the interest of justice so as to prevent vagrancy. The prayer of interim maintenance allowance by the petitioner thus deserves to be allowed. It is found appropriate to grant monthly allowance of Rs. 2,500/- each for interim maintenance of the petitioner and the minor daughter during the pendency of this case payable by the opposite party

¹ (2015) 6 SCC 353

to the petitioner from the date of filing of this case which amount would neither be luxurious to one nor penurious to the other.

14. Hence, it is

ORDERED

that the application dated 17.02.2023 filed by the petitioner for grant of interim maintenance allowance be allowed on contest.

15. The opposite party shall make a monthly allowance of Rs. 2,500/- each for interim maintenance of the petitioner and the minor daughter i.e. a total monthly allowance of Rs. 5000/- from the date of filing of the present application on the tenth day of every successive month till the final disposal of this case, failing which, the petitioner shall be at a liberty to take necessary legal steps for filing a case of execution to realise the above amount.
16. This Order shall cease to have effect on and from the date of the final judgment in the instant case.
17. Fix 06.08.2024 for payment and for evidence of P.W.
18. Let a copy of this Order be supplied free of cost to both the parties.

Dictated and corrected by me

Sk Alfaz Firdous
Judicial Magistrate 1st Court
Rampurhat, Birbhum