

Misc Case.-279/20
(Reg:-279/2020)

Order no. 15
10.07.2023

Today is fixed for hearing of petition for interim maintenance.

Both parties file hazira.

The petitioner namely Jenehar Bibi w/o Rejaul Sk residing at Pakhuria, PS Rampurhat, District Birbhum, filed this instant case u/s 125 Cr P.C before this court of law on 25.11.20 against her husband namely Rejaul Sk.

It is stated by the petitioner that the marriage between the parties took place 15 years back as per Muslim culture and the marriage was consummated and four children was born out of the wedlock. That the O.P. do not take any care and information about the petitioner and the minor children. That the O.P. have a income of Rs. 30,000/- per month. That on 17/11/20 the petitioner was driven out from the inlaws house along with her minor children. That the petitioner has claimed Rs. 10,000/- as interim maintenance for herself and her children.

The O.P. have appeared in this case by filing show cause and accordingly have denied most of the allegations made by the petitioner. The O.P. have admitted the fact of the marriage and the fact the birth of Nisha Khatun and Riaz Sk. out of the wedlock. But have disowned the first child which was born out of the first marriage of the petitioner and the fourth child which was born from the third marriage of the petitioner. The O.P. have further stated that he is a day laborer and have an income of Rs.200/- per day. That the petitioner is staying separately from the O.P. since last 11 years. Therefore, the O.P. prays for dismissal of the prayer for interim maintenance.

Marriage is the admitted fact of this case. Although at this stage this court has no documentary and oral evidence on record still it can be assumed that the OP furnished certain evasive denial in respect to his income.

It is also admitted fact that the petitioner is residing separately from the O.P. Moreover, the the Ld. Advocate for the O.P. have stated orally that the petitioner have remarried after the separation from the O.P.

There are allegations and counter allegations from both the sides. But the same is a matter of trial. It is needless to mention that the OP has solemn duty to maintain his wife, but in this case there is allegation that the petitioner have remarried and the O.P. have also alleged that the first child and the forth child are not his own. Therefore, this is a matter of trial and neither the petition nor the O.P. have filed any document relating to the paternity of the minor children. However, the O.P. have admitted the birth of the two children namely Nisha Khatun and Riaz Sk. from the admitted wedlock.

(2)

Therefore, I order the payment of Rs. 1500/- each for the above named two minor children as interim maintenance to be paid by the OP per month till the disposal of this instant case as it has appeared before this court that the OP has his solemn duty to maintain his minor children..

Hence, it is,

ORDERED

That this interim prayer for maintenance u/s 125 of Cr.PC be and the same is partly allowed on contest. The O.P. is directed to pay Rs. 1500/- each, therefore a total of Rs. 3,000/- per month as maintenance for the minor children. The order shall be effective from the date of filing of the case.

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

Fix 19/10/2023 for P.W.

(D/C) by me

JM 3rd Court, Rampurhat

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