

Misc Case No. 222/2021
(Reg No. 2179/2021)
(CNR No. WBBB06-001490-2021)

Order No. 15
14.12.2023

Today is fixed for hearing in respect of interim maintenance in presence of both parties.

Both parties file hazira.

Heard the Ld. Counsel for both parties.

The petitioner namely Mili Khatun wife of Sk Ramjan residing at Vill& P.O. Khanpur, P.S. Murarai, District Birbhum, filed this instant case u/s 125 Cr P.C before this court of law on 14.07.2021 against Sk Ramjan.

It is stated by the petitioner that petitioner have filed this instant case for maintenance of herself and her minor daughter against the O.P. That the petitioner got married to the O.P. on 24.01.2020 as per Muslim Rule. After marriage the petitioner went to the O.P.'s house for making family and the marriage was consummated and a female child was born out of the wedlock. That the at the instigation of the relatives started inflecting torture upon the petitioner and demanded Rs. 3,00,000/-, gold ornament, motorcycle from the petitioner. However the petitioner failed to fulfil the demands of the O.P. That on 02.08.2020 at about 7:00 p.m. the O.P. assaulted the petitioner by means of kicks and blows and slaps. At this the petitioner started screaming and the neighbours came to her rescue. At that time the petitioner's father and mother went to the petitioner's in-law's house and in presence of eminent five persons of the village a mutual settlement was made, but after few days the O.P. started demanding money and on 02.10.2020 at about 2:30 hours started assaulting the petitioner with kicks and blows and throttling and tried to kill her. At this she was taken to the Bolpur Super Specialties Hospital by the neighbours and at that time she was eight month pregnant. There after discharge from the hospital the petitioner went to her father's house and since then the O.P. did not take any information about the petitioner. The O.P. did not receive telephone of the petitioner and on the other hand the O.P. sent offensive SMSs to the petitioner. That the petitioner is willing to make family with the O.P. as she is concerned about the minor daughter. That the O.P. have 10-12 bighas cultivated land, pucca house and he works as constructor and have an income of Rs. 50,000/- to Rs. 60,000/- per month. The petitioner have claimed Rs. 10,000/- for herself and Rs. 10,000/-for her minor child as interim maintenance.

The O.P. have appeared in this case by filing vokatatnama and show cause and written objection against the interim maintenance petition. The O.P. have denied all the allegations made by the petitioner. The fact of marriage and birth of the child is admitted by the O.P. The O.P. have denied all the allegations made by the petitioner in respect of dowry claimed and physical assault made towards the petitioner. The O.P. have stated that he is a day labour and hardly manages to make income and he do not have the ability to give separate maintenance to the petitioner. The O.P. have stated that he is willing to make family with the petitioner. The O.P. have stated that as the

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Contd..Order No. 15
14.12.2023

petitioner is the beloved daughter of her parents, she is unwilling to return to the in-law's house and residing at her father's house at her own freewill. The O.P. further states that the petitioner have put pressure upon the O.P. to stay as 'Ghar Jamai'. In this situation the O.P. prays for dismissal of the petition for interim maintenance.

Heard. Perused. Considered.

Marriage and birth of the child is admitted fact in this case. Although at this stage this court have no documentary and oral evidence on record still it can be assumed that the OP have furnished certain evasive denial in respect to his income. The petitioner in the interim maintenance petition have stated that the O.P. have an income of Rs. 50,000/- to Rs. 60,000/-. On the other hand the O.P. have stated that he is a day labour and do not have such income. However, the O.P. have not stated anything about his approximate income. The O.P. have also not filed any affidavit of Assets belonging to him.

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 have solemn duty to maintain his wife. The legislative intent to provide interim maintenance u/s 125 Cr.P.C. is to achieve a social purpose with an object to prevent vagrancy and destitution. It provides a speedy remedy for the supply of food, clothing and shelter to the deserted wife. It gives effect to fundamental rights and natural duties of a man to maintain his wife, children and parents when they are unable to maintain themselves. The aforesaid position was highlighted in Savitaben Somabhai Bhatiya v. State of Gujarat and Ors. (2005(2) Supreme Court 503).

There is no specific allegation of any outward connection of the petitioner from the side of the OP that led the petitioner to leave her matrimonial house. The O.P. have made some evasive denial in respect of his income and have nowhere stated as to his income in the pleading. There appears some evasive denial of the O.P. in respect of his income and irrespective of this there is a solemn duty of the O.P. to maintain his wife and child. Therefore, I order the payment of Rs. 700/- per month to his wife and Rs. 800/-per month to his minor child 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 petitioner have no job and the OP have his solemn duty to maintain his wife and minor child.

Hence, it is,

ORDERED

That this interim prayer for maintenance u/s 125 of Cr.P.C. be and the same is partly allowed on contest.

The order shall be effective from the date of filing of this case.

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Contd..Order No. 15
14.12.2023

That the O.P is directed to make payment of Rs. 700/- per month for his wife and Rs. 800/- per month to his minor child as interim maintenance till the disposal of this case. Therefore, total of Rs. 1,500/- is to be paid by the O.P. to the petitioner as interim maintenance.

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

Fix. 27.03.2024 for evidence of PW.

(D/C) by me

Sd/- Eoropa Roy

JM 3rd Court, Rampurhat

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