

Misc. Case No. 100/63 of 2022

Reg. 86/2022

Interim Order

Present: Miss Sosanna Rai
Judicial Magistrate 1st class,
3rd Court, Bishnupur.

Date: 03.10.2023

Today is fixed for passing order regarding interim maintenance allowances subject to filing affidavit of disclosure of assets and liabilities by O.P.

Petitioner is present with hazira.

Opposite Party is present with hazira.

Ld. Advocate for the opposite party filed affidavit of disclosure of assets and liabilities. Perused. Let it be kept with the case record.

Ld. Advocate for the opposite party filed some photocopies of documents as per firsti. Let it be kept with the case record.

Record is taken up for order.

This is a case u/s 125 of the Cr.P.C. filed by Sudeshna Dey (Dutta) the petitioner against Suman Dutta the Opposite Party (herein after referred as O.P). The petitioner submits that the O.P is her husband and they got married on 11.03.2020 as per Hindu Rites and Customs. At the time of marriage the petitioner's father gave cash Rs. 1,00,000/- (Rupees One Lakh), one finger ring and one golden chain to O.P and 110 gm golden ornaments, bed, almirah, dressing table, 11 kasa pital dan samagri to the petitioner. After marriage petitioner went to her matrimonial house and started her conjugal life with the O.P. After few days of marriage petitioner came to know that O.P has illicit relationship with one man. When she intimated this matter to her mother-in-law then mother-in-law threatened her not to disclose this to anyone outside. The O.P and his mother pressurized the petitioner to

bring Rs. 1,00,000/- (Rupees One Lakh) from her parental house for the purpose of O.P's job. When she expressed her father's inability to pay the same then the O.P and his family members started physical and mental torture upon the petitioner. Lastly, on 11.09.2021 the O.P assaulted the petitioner and driven out the petitioner from her matrimonial house after keeping all her stridhan articles with them. Since then she has been residing at her parental house at the mercy of her father. The petitioner further states that she is living with extreme hardship at her father's place as the O.P is not paying any maintenance to the petitioner. Petitioner has no source of income of her own. She further stated that O.P is a private tutor from where he earns Rs. 20,000/- to Rs. 25,000/- (Rupees Twenty to Twenty Five Thousand) per month, he has two pond from where he earns Rs. 1,20,000/- (Rupees One Lakh Twenty Thousand) per annum. She further stated that O.P has 8-10 bigha of cultivated land from where he earns Rs. 1,50,000/- (Rupees One Lakh Fifty Thousand) per annum and he has two submersible pump in his name from where he earns Rs. 60,000/- (Rupees Sixty Thousand) per annum. Altogether the income of the O.P is Rs. 50,000/- (Rupees Fifty Thousand) per month.

The petitioner filed this case under section 125 Cr.P.C. on 27-09-2022 praying for maintenance amount of Rs. 20,000/- (Rupees Twenty Thousand)P/M for herself and Rs. 20,000 (Rupees Twenty Thousand) as litigation cost. Petitioner also filed this instant application for interim maintenance on the same date and prays for an amount of Rs. 15,000/- (rupees fifteen thousand) P/M. for herself as interim relief.

The Opposite party appeared in this case and filed written objection against the interim maintenance application. In his written objection the opposite party denied the entire allegation alleged against him by the petitioner in her application. The O.P submits that the petitioner left her matrimonial home out of her own wish and will. He further states that he is a private tutor and he earns Rs. 3,000/-

(Rupees three Thousand) per month. Additionally, he stated that petitioner is an educated woman and she has clothing business. O.P denied to have income as stated in the petition of the petitioner.

In these circumstances the opposite party prays for rejection of the interim maintenance application.

Heard both sides. Considered.

In this case there is no denial in respect of the marriage by the opposite party. The case is at the initial stage as no evidence has been given by the petitioner. Perused the declaration of asset and liabilities submitted by both sides.

In these circumstances in view of this court as the petitioner is legally married wife of the opposite party, and whether the petitioner left her matrimonial house voluntarily is a matter of trial and the same can not be decided without adducing evidence. That the O.P has submitted income certificate dated 16.08.2022 stands in the name of O.P issued by Birsingha Gram Panchayet and certificate No. 0101032278070959 dated 17th day of October, 2022 issued by Block Development Officer, Patrasayer, Bankura showing that the income of O.P is Rs. 48,000/- (Rupee Forty Eight Thousand) per annum. As per the both the income certificates and from Asset declaration it appears that the O.P is having income of Rs. 48,000/- (Rupees Forty Eight Thousand) per annum. Considering all this court is of the view that, at this stage the petitioner is entitled to claim interim maintenance for her subsistence.

Now the question is in respect of quantum of the maintenance amount. The petitioner claims/prays for an amount of Rs. 15,000/- (Rupees Fifteen Thousand) per month for herself and the opposite party claims that he is a private tutor and he earns Rs. 3,000/- (Rupees three Thousand) per month. O.P denied to have income as stated in the petition of the petitioner. As per the judgement of the Hon'ble Apex Court husband cannot deny the maintenance to his

legally married wife and minor child. In this particular case the petitioner at this stage could not prove the income of the opposite party is Rs. 50,000/- (Rupees Fifty Thousand) per month as stated in the main application of maintenance in this case, and it is also not clear whether the O.P has two pond , 8-10 bigha of cultivated land and two submersible pump and altogether his income is Rs. 50,000/- (Rupees Fifty Thousand) per month, as it is a matter of trial and it can not be decided at this stage as no evidence yet been adduced.

Considering all the above facts and circumstances, this court is inclined to allow the application of the petitioner with a direction to the opposite party to pay an amount of Rs. 1,500/- (Rupees One Thousand Five Hundred) per month to the petitioner from the date of this order till disposal of the case.

The Opposite party is also directed to pay the interim maintenance of each month within the 10th day of each month.

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

Fix 03.11.2023 for evidence.

Dictated & Corrected by me,

Sd/- S.Rai
Judicial Magistrate,
3rd court Bishnupur, Bankura.

Sd/- S.Rai
Judicial Magistrate,
3rd court Bishnupur, Bankura.