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Misc case 47 /15 of 24

Reg. No. 40 of 24

Interim Order

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

Date: 18.01.25

Today is fixed for passing order regarding interim maintenance.

Petitioner is present with Ld. Lawyer's hazira.

Opposite Party is present with Ld. Lawyer's hazira.

Record is taken up for order.

This is a case u/s 125 of the Cr.P.C. filed by Antara Das the petitioner against Tapas Ray the Opposite Party (herein in after referred as O.P). The petitioner submits that the O.P is her husband and they got married on 14.07.23 as per Hindu Rites and Customs. After marriage she went to her matrimonial house and started her conjugal life with O.P. Since after reception she was subjected to cruelty by her husband and by his mother. During her stay at her matrimonial house petitioner wanted to have baby but since the pregnancy she was subjected to torture by the O.P. and by his family members. Petitioner was not provided with proper food.On 13.02.24 OP took the petitioner by making her convinced that the petitioner to stay at her parental home for few days and after few days , O.P. would come to stay at her parental house , but unfortunately O.P./ never come back and O.P. refused to take her back. Since then she has been residing at her parental house under the mercy of her father. O.P. neither take any information nor provide any maintenance to the petitioner . Petitioner has no source of income of her own. She further stated that O.P is an able bodied person and he is a Govt. Employee at Water Irrigation Department and his monthly income is Rupees one lakh.

The petitioner filed this case under section 125 Cr.P.C. on 08.04.24 praying for maintenance amount of Rs. 50,000/- (Rupees Fifty Thousand)P/M for herself and Rs. 5000/- for litigation cost. Petitioner also filed this instant application for interim maintenance on the same date and prays for an amount of Rs. 50,000/- (Rupees Fifty Thousand)P/M for herself as interim relief and Rs. 5000/- for litigation cost .

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. That the petitioner used to keep her self engaged with her smartphone ignoring all essential household work and she used to speak in a very harsh noise with O.P. He deliberately started misbehaving with the O.P's parents and intentionally used to pick up quarrel with the O.P's mother. O.p. further stated that he is working in contractual basis and he is a Junior Engineer and his monthly salary is Rs. 40,895/- (rupees forty thousand eight hundred ninety five) and he denied to have income as stated in the petition of the petitioner. O.P. also has to look after his aged parents and maternal grandfather along with their medical expenses.

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. Perused the photocopies of documents submitted by both sides. There are many allegations and

counter allegations against each other but this case is at premature stage, and no evidence yet been adduced and as such the court can not go into the merits of the case at this stage and the petitioner being the legally wedded wife of the O.P. 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. 50,000/- (Rupees Fifty Thousand) per month for herself and the opposite party claims that he is working in contractual basis and he is a Junior Engineer and his monthly salary is Rs. 40,895/- (rupees forty thousand eight hundred ninety five) . O.P denied to have income as stated in the petition of the petitioner. As per the judgment 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. 1,00,000/- (Rupees one Lac) per month as stated in the main application of maintenance in this case, 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. 12,000/- (rupees twelve thousand) per month to the petitioner from the date of filing of this case ; failing which the petitioner will be at liberty to put the order into execution 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 26.02.25 for evidence.

Dictated & Corrected by me,

**Judicial Magistrate,
3rd court Bishnupur, Bankura.
J.O.CODE WB01291.**

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3rd court Bishnupur, Bankura.
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