

IN THE COURT OF JUDICIAL MAGISTRATE (1st Class),
BARUIPUR

(Present-Ms. Ishita Acharya, J.O.code-WB01401)

M case- 464 of 2022 (CIS- 464 of 2022)
(T.R. no. 232/2022)
(CNR-WBSP0F0015062022)

Suhana Khatun Bibi....Petitioner/1st party
vs.
Md. Nasir Ali Molla.....Respondents/opposite parties

Order dated-14.11.2024:-

Today is fixed for passing order.
The petitioner is present by filing hazira.
Now, the record is taken up for passing order.
Perused the materials on record.

This is an application under section-125 of Code of Criminal Procedure, 1973 filed by the petitioner namely Suhana Khatun Bibi, claiming maintenance for herself and for her two children from the opposite party namely Md Nasir Ali Molla, who happens to be her husband. The petitioner covets for a sum of Rs. 4000/- for herself and Rs.5000/- each for her two children as monthly maintenance.

It appears that she has filed the maintenance case against her husband Md Nasir Ali Molla. Their marriage was solemnized on 22.06.2014 as per Muslim rites and customs and Rs.2500/- was fixed as denmohor and the said marriage was duly registered. At the time of marriage, several articles, including other valuable articles were given as per the demand of the OP. After the marriage, the petitioner went to her matrimonial house along with such articles to lead a conjugal life. After one year of marriage, the OP and his family members used to inflict physical as well as mental torture upon the petitioner. They also deprived the petitioner of basic necessities such as food, clothes and medicine. They also assaulted the petitioner upon demand of more dowry. Out of their wedlock, two male children were born. The OP demanded of Rs.1 lakh as further dowry which the petitioner's father could not fulfill and therefore, OP and his family members assaulted the petitioner. On 15.04.2021, they drove the petitioner and her children out of the matrimonial house in distressed condition and since then the petitioner has been residing at her father's house and till date, OP has not enquired about the petitioner. The petitioner does not have any source of income whereas OP has an electronics good repairing shop, sells electronics item and also has his own house and landed properties and he earns about Rs.25000/- per month. As such, the petitioner has prayed for monthly maintenance of Rs.4000/- for herself and Rs.5000/- each for her two children.

It appears from the record that the instant case was fixed for exparte hearing vide order dated 07.12.2022 and the exparte evidence of the petitioner was completed on 24.01.2023 but OP appeared on 06.02.2023 and prayed for vacating the exparte and also files WO. The exparte against the OP was vacated subject to payment of Rs.500/- vide order dated 06.02.2023 and the instant case was fixed for evidence, payment and filing affidavit of assets and liabilities by OP. Thereafter, vide order dated 31.07.2024, the instant record was fixed for cross of PW1 and filing affidavit of assets and liabilities by OP on 13.11.2024. Ultimately, on 13.11.2024 OP did not turn up and hence, the instant case was again fixed to proceed exparte against OP.

After perusing the record and also the evidence of PW1, this Court is of the view that the petitioner has claimed herself to be the wife of the OP. Even she had stated that OP has tortured her physically and mentally. So it can well be held that the opposite party herein earlier used to maintain and used to bear the expenses of the petitioner. Therefore it can be held that the opposite party has sufficient income to bear the expenses of the petitioner. Moreover this Court further holds that it is incumbent and also the responsibility of the able bodied person to maintain his married wife. So, considering the above stated facts and circumstances, this Court opines that this is a fit case for allowing maintenance and considering the status of the opposite party and the present socio-economic condition, this Court feels it sufficient for the petitioner and not unjustified on the part of the opposite party if the maintenance is granted at the tune of Rs. 2,000/- for the

Contd.....P.T.O.

petitioner and Rs.3000/- each for her two sons per month. Furthermore, this Court is of the view that the amount of maintenance will neither be penurious nor be luxurious for the parties.

Hence, it is

ORDERED

That the instant petition praying for maintenance is allowed in part on exparte with no order as to the cost.

The opposite party is directed to pay Rs. 2,000/- per month to the petitioner and Rs. 3000/- each per month for her two sons, as maintenance from the date of final order of this case. The said amount shall be paid by the opposite party every month to the petitioner within first 10 days of each succeeding month commencing from the date of this order, failing which the petitioner will be at liberty to put the order in execution.

Accordingly, any interim order passed or any interim application to be disposed of, stands vacated / disposed of.

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

BC-I to update the Court diary, CIS and cause list.

BC-II to update the relevant register.

Stenographer to upload the order in the CIS.

Typed and printed by me-

Judicial Magistrate, Baruipur

Judicial Magistrate, Baruipur