

Misc Case 47 of 2021
T.R. 06 of 2021

Order No.12 dated 24.01.2022:-

Both parties are present along with their Ld. Advocates by taking steps.

Today is fixed for passing of order with regard to the interim maintenance petition and amendment application.

The amendment petition was heard on the previous day in presence of both the parties.

Considered.

The learned advocate for the respondents submitted that the amendment is formal in nature and will not change the nature and character of the Written Objection.

Whereas on the other hand, the learned advocate for the aggrieved person did not raise any objection.

In view of the above, the amendment petition dated 07.12.2021 is hereby allowed.

B.C.II to do the needful.

Now the record is taken up for passing of order with regard to the interim maintenance petition.

Recollected the submissions made by the Ld. Advocates in support and against the petition on the earlier date.

Perused the documents filed by the parties during such submission.

Considered.

Record is taken up for passing order.

The aggrieved person's case in short is that she married the respondent No. 01 on 16.01.2020 as per Hindu Rites and Customs by way of negotiated marriage by giving gold ornaments such as fancy gold chick, gold lahiri Sita har, naksha pipe kora (2 pieces), necklace, chick, chur (2 pieces), naksha pipe kora (2 piece), necklace, chick, chur (2 pieces), chain with Ganesh locket sets of ear ring-8 (eight sets), 01 locket, chain (groom), ring (groom) weighing 16-17 bhories, petol utensils, trolley bag, huge garments, imitation and cosmetics and household articles and went to her matrimonial house where the aggrieved person lived in a joint mess with all the respondents. Soon after marriage, the respondents started misbehaving with the aggrieved person as they were not happy with the gifted goods and articles which the aggrieved person brought from her family. The respondents also

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imposed mental pressure and torture on the aggrieved person who had to be confined in her room only and she was not allowed to go out of the house or to meet anyone by the respondents and she was not even provided with adequate food and amenities. The respondents also did not allow the aggrieved person to contact with her parents and over slightest mistake, the respondents used to abuse the aggrieved person in filthy languages. Few days after marriage, the aggrieved person came to know that the respondent No.01 is addicted to alcohol and he used to misbehave and insult the aggrieved person in inebriated condition and when the said fact has been intimated to the respondents Nos. 02 and 03, they used to take side of the respondent No.01 blindly and they instigate the respondent No.01 to behave cruelly with the petitioner and she was forced by the respondents to return to her paternal house and was not allowed to wear good attire, gold jeweleries or to use cosmetics. The respondents also used to humiliate the aggrieved person in front of relatives and the aggrieved person was asked not to use social media like Facebook . On 17.03.2020 at night, the respondents started misbehaving with the aggrieved person and they abused the aggrieved person with filthy languages and the aggrieved person informed to matter to her parents over telephone and on 18.03.2020, the father of the aggrieved person went to the house of the respondents and brought the aggrieved person to her paternal house and after that the aggrieved person tried to contact with the respondents over telephone but none of them responded and on 20.03.2020, the aggrieved person returned to her matrimonial house accompanied by her elder brother and sister-in-law and when they all reached to the house of the respondents, they all insulted them and they also refused to receive calls from the mobiles of the parents of the aggrieved person and they also treated the aggrieved person as maid servant and the aggrieved person was not allowed to touch the Aqua guard filter, Air-conditioner and refrigerator etc. on 05.06.2020, the respondents left the aggrieved person at her paternal house and suggested her to stay there for one month to realise the problems by both parties and they committed to start their life afresh after her return but they did not show any interest to take back the aggrieved person and on 15.08.2020, the respondent No.01 reluctantly came to the paternal house of the

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aggrieved person to bring her back and also threatened the parents of the aggrieved person to return the aggrieved person at her father's house if she failed to fulfill their verbatim. On 19.10.2020, the respondent No.01 shifted to a rented accommodation at Kalyani near his place of employment but there was no arrangement of basic household articles to run a family and the aggrieved person faced severe problem to run the family and whenever the aggrieved person requested the respondent No.01 to buy few basic utensils and household articles, he refused vehemently and used to return at night, sometimes at mid night with plea to do office jobs. On 22.10.2020, the respondents Nos.02 and 03 went to the maternal uncle's house of the respondent No.01 at Kalyani and they called the respondent No.01 there and the respondent No.01 went there to take his meal without arranging any meal for the aggrieved person. The respondent No.01 also neglected the aggrieved person whenever the aggrieved person got ill and in the month of November, 2020, the aggrieved person became severely weak and the respondents sent her to her paternal house and on 19.11.2020, the elder brother of the aggrieved person accompanied her to doctor who diagnosed that the aggrieved person was suffering from malnutrition and suggested her to take good foods and medicines and protein supplement and the parents of the aggrieved person took proper care of her and recovered her health condition and since December, 2020, the respondents stopped all kinds of communications with the aggrieved person and the parents of the aggrieved person tried many times to negotiate the matter but the respondents flatly refused to settle the matter and refused to restore the relationship and the parents of the aggrieved person called the respondents to discuss the issues but the respondents showed their unwillingness for a sitting and thereafter they even did not receive the calls of the aggrieved person and the aggrieved person got back her all Stridhan properties at the instance of well-wishers though the respondents refused to hand over anything to her. The aggrieved person has claimed that respondent No. 01 is an able-bodied man and is a Research Scientist and working as PDRF, scientific staff at CESSI (Centre of Excellence in Space Science in India) which is under IISER (Indian Institute of Science Education and Research) Kolkata situated at Kalyani and he has completed his M.Sc and Ph.D from

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IIT, Kharagpur and presently doing post doctoral research at IISER Kolkata and earns Rs.68,200/- and he also earns Rs.40,000/- to Rs.50,000/- approximately from other sources. The aggrieved person further contended that the respondent No.02 is a consultant and the respondent No.03 is an employee of B.S.N.L and the respondents have their own two premium flats around Acropolis mall, one in Neelachal Abasan, 98, Rajdanga Gold Park, East Kolkata Township Kasba, Kolkata-107 (2 BHK) and the respondent No.01 has no dependant except the aggrieved person and the respondent No.01 maintains a premium four wheeler in his name, of Hyundai I20 Active VTVT s model bearing registration number WB06P7041 whereas the aggrieved person has no source of income of her own and the aggrieved person has thus prayed for maintenance of Rs.30,000/- per month for herself, protection order directing the respondents not to commit any Domestic Violence on the aggrieved person by any manner whatsoever including economic violence, residence order providing the aggrieved person an alternative residence at Kasba Police Station or Liluah Police Station area in default pay her Rs.10,000/- as monthly rent, compensation of Rs.20,00,000/- only for committing severe domestic violence on the aggrieved person and interim orders u/s 23/20/18 of the P.W.D.V Act, necessary directions to the District Protection Officer at Howrah and Police Stations at Kasba and Liluah to implement the orders of the learned Courts and other reliefs.

Respondents objected to such prayer by filing their W.O but admitted the marriage but denied all material allegations averted in the petition. They further contented that the aggrieved person would not even allow the respondent No.01 to touch her and on several occasions, the aggrieved person even pierced the body of the respondent No.01 with her nails violently if he approached and the respondent No.01 would be very much hurt, mentally, emotionally and physically and she always looked for some pretext, if none she would create one to create unrest in the family as would she be taught over mobile by the members of her paternal family, particularly her elder brother, a judge, and she would hurl abuses against the respondents in their presence over mobile to the said elder brother and others ignoring that the father of the respondent No.01 had high blood pressure, mother high acid reflux and both have heart problem and after returning home from

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office at night, the respondent No.01 would be put to severe task for delay and the aggrieved person would not accept that this was the time of his duty and he could not come earlier from the Institute located at Haringhata and he would have to face unwarranted demands and threats of legal action using her brother's judicial position for which the health of the respondent No.01 was deteriorating and he was failing to concentrate in his work for want of sleep due to the constant nagging of the aggrieved person and many a night at the Neelachal Abasan, the aggrieved person exploited and blackmailed the respondents by refusing to take dinner when all the respondents had to keep awake and implore her to take meal, when she would take meal, it would already become too late at night for the old persons and the aggrieved person also used to give threats of legal action u/s 498A by virtue of her brother being a judge and soon thereafter commands and threats would come to this respondents from the aggrieved person's elder brother being the judge and on 17.03.2020, the aggrieved person called up her mother and screamed loudly in presence of the respondents wanting to go back to her father's house saying that she had committing blunder by agreeing to marry this respondent and the mother of the aggrieved person coerced the respondent No.01 to take her to them but it was a working day and so the respondent No.01 politely wanted time till Saturday but the aggrieved person was adamant and wanted her father to take her along and in presence of all, the aggrieved person called her judge brother who was at Jungipur over phone to know whether she would go by taxi or by bus and on 18.03.2020 the aggrieved person left for her paternal home and in the afternoon of 20.03.2020, she returned on her own with her elder brother and sister-in-law without any prior intimation and her brother hurled all accusing diatribes against the respondents for the leaving of the matrimonial home of the aggrieved person on 18.03.2020 and the aggrieved person used to wash her linens with separate detergent in the machine separately and she had also her own separate bathing soap and she had manifold abnormal problems and her parents and brother knew it but did not expose. On 18.05.2020, the brother of aggrieved person called the respondent No.02 and insulted him vigorously demanding of him to send the aggrieved person with bag and baggage immediately and the respondent No.02

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prayed for time till the impact of COVID-19 pandemic subsided and protocol of post Lockdown was loosened so as to secure safety of the aggrieved person. The brother of the aggrieved person used to call the respondents over telephone and asked them to level charge of economic abuse and mental abuse and the aggrieved person tried to create something noxious out of nothing and she called the maternal aunt-in-law 'ashabhya' and she was wearing a 'maxi' and put up threats of legal action against all matrimonial relatives if she felt unhappy. The respondents further contended that the facts in paragraph no.16 have been portrayed in a twisted manner and the respondent admitted that shifting to a rented flat of Haringhata (not Kalyani) had taken place on 19.10.2020 and fact of this shifting has been very cleverly crafted in a different way by suppressing the cause and the aggrieved person had been creating too much troubles at Neelachal Abasan by shouts and hurling insults on the aged respondents Nos.02 and 03, sometimes by refusing to take food and complaining of everything in the flat and she would pose quite calm whenever anybody visited but would become violent when there was no outsider. The respondents further contended that the respondent No.01 and the aggrieved person both together went to Canara Bank, Gariahat Branch, Kolkata, filled in the forms, completed the formalities and together signed at all places as instructed by the bank staff and opened a joint account locker on 13.10.2020 in their names and they also opened a fixed deposit account with Rs.10,000/- paid by this respondent and the aggrieved person kept the key of the locker and on 31.12.2020, the aggrieved person returned the key of the said locker to the respondent after taking all her deposits from the said locker in presence of her brother's wife and the respondent learnt it from the bank staff. The respondent further contented that the aggrieved person did not do any household work of her own whereas the respondent no.01 has to do all the domestic household works on his own. On 16.11.2020, the brother of the aggrieved person came at Haringhata flat and took the aggrieved person to her paternal house for performing 'bhaiphota' there and at that time, the respondent gave her money and the duplicate key of the flat for her convenience and further contended that during December, 01 to 17, 2020, the respondent No.01 was busy in attending a virtual conference at the United States from Kolkata and at that time, the

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aggrieved person was calling him over phone time and again and wanted to take her back with him and thereafter the aggrieved person told the respondent No.01 that she wanted to take along her all belongings from the Haringhata flat and on 29.12.2020, she accompanied by her sister-in-law took away her all belongings from the flat in his absence and on 31.12.2020, the aggrieved person took away all her ornaments from the bank locker in presence of the respondent No.01. From the assets and liabilities, the respondent No.01 states that he has monthly income of Rs.66,000/- whereas the aggrieved person holds a Master Degree and is a potential competent earner and the respondents thus prayed for rejection of the petition.

In this case, the marriage between aggrieved person and respondent No. 01 has been admitted. In the W.O, the respondents contended that respondent No.01 bore all the expenses of the aggrieved person and as such, the vital ingredients of the P.W.D.V Act to receive necessary order has been fulfilled in this case as respondents admitted that they have domestic relation with the aggrieved person and they all resided in shared household and respondent No.01 maintained the aggrieved person.

The respondents have claimed that the aggrieved person holds a Master Degree and is a potential competent earner but they failed to bring before Court any single document in support of such claim or that she has any source of income and his frank admission of bearing all expenses for the aggrieved person speaks volume against such claim and as such, it is not acceptable to this Court at this stage when evidences are forthcoming.

It needs no reiteration that it is well settled principle of law that the allegation of torture by the wife does not require corroboration and in this case, the allegation of the aggrieved person that she was subjected to domestic violence is enough for this Court to hold that prima facie case has been made out by her.

From the declaration of assets, liabilities, income, expenses etc with documents, it appears that the respondent No.01 earns Rs.66,000/- per month whereas the aggrieved person has no source of income of her own.

In view of the above, I find that there is incidents of domestic violence and as such, protection is required. It has also been objected by the respondent No.01 that since the aggrieved

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person is a qualified lady, so she is not entitled to get maintenance but it appears from the record that neither any mention of income of the aggrieved person has been made nor any scrap of paper of her income has been filed before this Court. Thus, in view of this Court, it cannot be said that she is not entitled to get any interim maintenance from the respondent No.01 / husband just because she is a qualified lady. Since, the aggrieved person is unable to maintain herself, it is necessary to grant interim relief at this stage.

Considering the status of the parties, their respective liabilities, their health condition and also other factors, I am of view that Rs.7,000/- will be sufficient for the wife. In my view, this amount is neither penurious nor luxurious for both the parties.

Hence, it is,

ORDERED :-

That the instant petition be and the same is allowed on contest but in part.

The aggrieved person is entitled to receive a monthly maintenance of Rs.7,000/- per month for herself. The respondent No.01 is directed to make payment of Rs.7,000/- per month to the aggrieved person by 10th day of every succeeding English calendar month starting from this day. In default, the aggrieved person is at liberty to put the order into execution.

I could not peruse the D.I.R as the same is not available on record.

Call for D.I.R from the District Protection Officer, Howrah, at once.

The respondents are further directed not to cause any domestic violence upon the aggrieved person in any manner whatsoever.

Let a copy of this order be given to the parties free of cost and also sent an extract copy to O.C Liluah P.S and O.C Kasba P.S as well as District Protection Officer, Howrah.

To _____ for evidence.

Parties to come ready.

A.I.C in advance.

D.C

Judicial Magistrate, 1st Class,
5th Court, Howrah.