

**MISC CASE NO-357 of 2023**

**Order dated 07.12.2024:**

Today is fixed for appearance and hearing.

OP absent without steps.

No one appeared for OP.

Petitioner files hazira.

The record is taken up for hearing the case ex parte.

Heard Ld. Adv for the petitioner.

Perused the petition. Considered.

As per the record it appears that the petitioner has filed an application against the respondent u/S 12 read with Sections 18/19/20/22/23 of Protection of Women from Domestic Violence Act, 2005.

1) The case of the aggrieved person is that she got married with respondent in the year 1996. After marriage she went to her matrimonial home and started staying with respondent No.1 in joint mess as husband and wife at her matrimonial home at Rabindrapally, Sapuipara, P.S. Nischinda, Dist – Howrah.

2) It is the specific case of the aggrieved person that after few days of their marriage the respondent has started mental torture upon the petitioner and created pressure upon the petitioner No.1 to bring Rs.3 lakh cash from her parents and also threatened her if she failed to bring money from her parents he will kill her. The in-laws of the petitioner always supported him to create pressure upon the petitioner for bringing money from her paternal house and also subjected mental and physical torture by them. Thereafter the petitioner asked her father to give money as per demand of the respondent and for the sake of his daughter's life somehow he arranged Rs.3 lakh cash and gave the respondent. The respondent and his family members did not allowed to the petitioner to talk with her family members and neighbours, if she tried to do so, the respondent abused her in filthy languages. The respondent always returned home at late night in drunken condition and without any reason he assaulted the petitioner every night.

3) The respondent is an able bodied person and earns Rs. 30,000/- per month by driving TOTO and has also fixed deposits.

4) Since after the marriage the respondents used to physically and mentally tortured the petitioner and did not provide proper maintenance to

her. The petitioner subsequently became pregnant and gave birth to one male child ,namely, Joy Saha on 31.07.1997 and gave birth to another female child namely Sonali Saha on 17.12.2004. The Respondent No. 1 did not provide sufficient maintenance to the children.

5) Thereafter due to the marriage of the sister of respondent, he demanded Rs.4 lakhs cash from the father of the petitioner No.1 and threatened if he do not pay then the respondent will torture regularly upon the petitioner No.1. Thereafter the respondent started tortured upon the petitioner in drunken condition regularly. After few days the father of the petitioner forced to pay the said amount for the sister's marriage of the respondent.

6) Thereafter again after few months of his sister's marriage he started demanding of Rs.5 Lakhs from the father of the petitioner No.1 for new business and not fulfilling the the same the respondent became violent and increased torture upon the petitioner No.1 and also threatened to kill her. Thereafter for the sake of daughter / petitioner No.1 the father of the petitioner gave Rs.5 Lakh cash to the respondent. After receiving money the started business and also snatched the gold ornaments of the petitioner.

7) Thereafter on 17.05.2013 the petitioner No.1 came to know that the respondent had involved with another lady Mitali Kar and on protest she was assaulted mercilessly and was treated at Belur Hospital at Howrah. So the petitioner No. lodged a complaint at Nischinda PS, being case No. 143 / 2013 dated 21.05.2013 under Section 498A/406 of IPC. After few months the respondent married the said Mitali Kar and left the house leaving the petitioner No.1 with her children and did not contact with them. Thereafter the petitioners and the son of the petitioner No. 1 has been living at matrimonial house of the petitioner and the petitioner No. 1 has no source of income and with the help of some will wishers somehow she and her children lead their daily life. In the year 2018 the son of the petitioner No. 1 got married and living separately in other place and the petitioners living together in the house of the respondent. The respondent is an able bodied person and earns Rs. 30,000/- per month by driving TOTO and has also fixed deposits and she prays for Rs. 5,000/- per month for petitioner No.1 and Rs.7000/- per month of the aggrieved person No.2.

8) Heard both sides at length and considered.

9) Now, the Court has to fix the amount of maintenance. It is the settled proposition of law that the amount to be awarded to the aggrieved person neither should it be luxurious nor should it be penurious but it should be in consonance with the lifestyle of her husband and also considering the prima facie stage of the case and In view of the discussion made herein above I am of the view that the aggrieved person is entitled to get relief as prayed for.

Hence, it is,

**Ordered**

The interim application filed by the aggrieved person under section u/S 12 read with Sections 18/19/20/22/23 of Protection of Women from Domestic Violence Act, 2005 against respondent is considered and allowed in contest.

The respondent is hereby directed to pay the aggrieved person monthly monetary allowance of Rs. 3000/- per month to the petitioner No.1 and Rs. 4000/- per month to the aggrieved person No.2, totaling 7000/- per month to the petitioner from the date of the filing of the case as interim maintenance by 10<sup>th</sup> day of each succeeding English calendar month.

It is however, made clear that nothing of the observations made in this order shall have any effect on the trial and the trial shall be held independently.

That the petition is hereby disposed of.

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

To ..... for ex parte evidence.

**Dictated and correct by me**

**Judicial Magistrate,**  
**4<sup>th</sup> Court, Howrah**

**(Keya Sarkar )**  
**(JO Code WB01123)**  
**Judicial Magistrate,**  
**4<sup>th</sup> Court, Howrah**