

Order No. 08 dated 19.02.2020:-

Both parties are present along with their learned advocates by taking steps.

The respondents filed a document by way of Firisti.

Today is fixed for hearing of petition praying for interim relief.

The respondents filed Written Objection against the application U/S 12 of the P.W.D.V Act.

The application praying for interim relief is taken up for hearing.

Heard. Perused. Considered.

Document filed during course of hearing be kept with the record.

The Case record is taken up for passing necessary order.

The aggrieved person's case, in brief, is that she married the respondent number 01 in the year 2004 and, thereafter, resided at her matrimonial house and a child was born in the wedlock in the year 2005. Although dowry was given at the time of marriage but the respondents demanded more dowry from the aggrieved person and she was treated with torture for not fulfilling such demand. She was tortured by the respondents on several occasions and was driven out from the matrimonial house. Lastly, on 27.08.2018, the aggrieved person was tortured and driven out from the matrimonial house in single attire with her minor daughter retaining the Stridhan articles and gold ornaments. Since then, she is residing with her father without any source of income of her own. She further contended that her husband earns Rs.35,000/- to Rs.45,000/- per month from his business of pisciculture and van. She, thus, prayed for interim maintenance allowance of Rs.10,000/- per moth for herself and Rs.5,000/- per month for the minor daughter along with other reliefs.

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The respondents objected to such prayer by filing Written Objection against the instant application wherein the respondents have disputed and denied all the allegations made against them. The respondents admitted the fact of marriage and the parentage of the child and residing in the matrimonial house but contended that the respondent No.01 earns Rs.30,000/- per annum as a van rickshaw puller. The respondents further contended that the aggrieved person has left the house on her own will in the year 2011 along with her articles and as such prayed for rejection of the petition.

In this case, the matrimonial tie and residing in a domestic relationship in shared household has been admitted in pleadings of both the parties. It is no longer res-integra that allegation of torture upon the aggrieved person does not require any corroboration and as such, it prima facie appears that the aggrieved person was subjected to domestic violence by the respondents in view of the averments made in the petition.

It is true that the aggrieved person has not given any explanation as to wherefrom she maintains herself and the minor daughter till date and as she is not residing with the respondents since long but it is also a fact that the aggrieved person has the liberty to pray for maintenance allowance whenever she faces need of the same. Furthermore, the respondent No. 01 cannot deny to maintain his own daughter.

The respondents have not made any whisper about the income of the aggrieved person but filed a document issued by local Panchayat Pradhan. It appears that he earns Rs.30,000/- per annum and as such it may be hold that he is an able-bodied healthy person having capacity of earning and as such, cannot be permitted to deny to maintain his own wife and daughter in the given circumstances.

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Having regards to the facts ad circumstances of the case, status of the parties and their respective liabilities, income, present price index, welfare of the child including her education and other factors required to be considered for determining the quantum of maintenance amount, I find that Rs.2,000/- per month will be sufficient for the aggrieved person and Rs.1,500/- per month will be sufficient for the minor daughter at this interim stage. In my view, this amount is neither penurious nor luxurious for the parties. The respondents should also be restrained from causing any domestic violence upon the aggrieved person.

All other reliefs are refused at this stage as the evidence has to be considered to decide those issues.

Hence, it is

O R D E R :-

that the interim maintenance petition be and the same is allowed on contest without any order as to costs but in part with the effect from today.

The respondent No.01 is hereby directed to pay to the aggrieved person Rs.2,000/- per month as interim maintenance to the aggrieved person and Rs.1,500/- per month to the minor daughter totaling to Rs.3,500/- per month as interim maintenance by 10th day of every succeeding English calender month starting from this day. In default, the aggrieved person is at liberty to put the order into execution.

The said amount is adjustable at the stage of final disposal of this case.

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

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

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