

MC 93/2023
J.O. Code : WB01233

Order dated :-
13.08.2024

Today is fixed for interim order.

The aggrieved person is present by filing hajira.

Respondent No. 1 and 3 are present and respondent no. 2 and 4 files taraf hazira.

Ld. Advocates for the both sides are present.

The application u/s 23 D.V. Act is taken up for consideration and passing order.

Heard the Ld. Advocates for both sides in full including the documents relied upon and the affidavit of assets and liabilities. .

The contention of the aggrieved person is that she is the legally wedded wife of respondent no.1 and their marriage was solemnized on 20.02.2022 as per Hindu Rites & Customs. Respondent Nos. 2 to 4 are the members of her in-laws house. At the time of marriage the parents of the aggrieved person gifted five bhory gold ornaments along with cot, bed and beddings, almirah and other articles. After marriage the aggrieved went to her matrimonial home and started residing there in a joint family. The aggrieved few days stayed well and after that the respondent no. 1 started torturing her on demand of dowry. The respondent no. 1 along with his family members tortured the aggrieved over the issue of cooking. Respondent no. 1 also pressurized her to bring money from her paternal home of Rs. 1 lakh for purchasing new bike and also for purchasing a new flat and on her failure they started physical and mental torture upon her. She was even not provided sufficient food, clothings and other essential commodities. They had inflicted both physical and mental torture upon her by series of domestic acts. Thereafter, on 24.11.2022 the respondents conspired to kill her and knowing that matter she informed her father over telephone, but thereafter the respondents tortured her physically and drove her out with single attire. Since then she has been staying at her paternal house. The respondent no.1 is a primary school teacher and gets salary of Rs.42,000/- and he also provides tuition from where he also earns Rs. 25,000/- to Rs. 30,000/- per month. He also has houses and landed property.

The aggrieved person is unable to maintain herself and she has no independent source of income. She is spends her livelihood on the charity of her parents. On contrary, the respondent no.1 has sufficient means but he refused to maintain the aggrieved person. She has prayed for the relief of interim maintenance from Respondent No.1 as per the prayer portion of the petition.

On the other hand, the respondents appeared and file W/O denying and disputing all the material allegations except the marriage as stated in the complaint. The application under D.V. Act is not maintainable at all as there is no cause action whether any domestic violence has been caused or not. The allegations as raised by the aggrieved person are baseless. They labeled some allegations against the aggrieved person. Respondent no.1 has denied the income as stated by the aggrieved person. The respondent no. 1 stated that he is a works in a primary school and get salary Rs. 29,266/-. He had prayed for refusal of the prayer. The respondent no. 1 further stated that the aggrieved is a highly educated and provides private tuition in her home and earns Rs. 15,000/- to Rs. 20,000/- per month.

I have given my attention to the submissions of both the Counsels and materials on record.

Having considered the submissions and on careful scrutiny of the record, it appears that the marriage in between the parties is not disputed. Presently, the aggrieved person is residing with her parents. It is no doubt prima facie that the parties are residing separately. It also appears that after marriage, the aggrieved person and the respondent no.1 started to lead their conjugal life at her matrimonial home in a common mess with other respondents as admitted by both sides. The respondent no.1 has denied the quantum of income and domestic incidents as stated by the aggrieved person.

At this stage, without delving deep into the allegations and counter allegations, I am of the opinion that it is the incumbent upon the respondent no.1 to maintain his wife and to fulfill her basic needs as per his status. The respondent 1 once admits the marriage, he cannot escape his liability, save and except as provided in the provision which is yet to be

proved. There is nothing on record to help me ascertain the other source of income of the respondent no.1. Regarding the accommodation and other claims of the aggrieved person, I am not inclined to allow the prayer without going through the evidence. Again, whether any domestic violence has been caused upon the aggrieved person or not is a matter of trial. But, the purpose of giving interim maintenance during pendency of the proceeding is to save the life of the aggrieved person.

Considering the material available on record and need of the hour and present status of the parties, I am of the opinion that the aggrieved person is entitled to get interim maintenance till the finality of this case. Thus, considering the status, position and present market price, I am inclined to pass an order in favour of the aggrieved person for allowing maintenance for their livelihood. Regarding the prayer of litigation cost by the aggrieved person in my view it shall be considered at the time of trial.

Hence, it is

ORDERED

that the petition u/S 23 of D.V. Act is hereby allowed on contest and the same is accordingly disposed of without any order as to costs.

The respondent no.1 is hereby directed to provide interim maintenance of Rs. 7,000/- per month to the aggrieved person inclusively within 10th day of each calendar month from the date of filing of this case, i/d the aggrieved person is at liberty to put the order in execution.

Let a copy of this order be given aggrieved person free of costs.

Fix **12-02-2025** for evidence.

D/C by me

JM 2nd Court Uluberia

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