

MC 291/2019
CNR NO. : WBHW120035672019
J.O. Code : WB01208

ORDER Dt. 03.02.2022

Today is the date fixed for interim order and evidence. Both the parties are present along with their Ld. Advocates and files hazira. Accordingly, petitioner deposed as PW-1 in part in examination in chief and defferred on prayer of petitioner.

On the last occasion interim petition heard in full. Having heard both sides and after perusal the materials on record, it appears to me that the Interim maintenance application is allowable pending disposal of the case for the following reasons:-

1. The marriage is admitted by both sides (the O/P has admitted in his W/O that on 08.03.2015 before the Muslim marriage register & Kazi the marriage with the petitioner be taken place). Paternity is also admitted factum by either side.
2. The petitioner has been residing in her parents' house since 28.01.2019 i.e. the day of alleged incident of drove away.
3. The O/P is not maintaining the petitioner.
4. Both sides' allegations against each other are subject to full-fledged trial.
5. The very purpose and scope of the legislative intention U/s 125 Cr.P.C is to provide the maintenance (either interim or permanent) to avoid the restitution and urgency of the petitioner and during pendency, the litigation costs or day to day cost of the case also permissible and comes under the ambit of this Section.
6. Pending disposal of this case and any other involved issues, this court has jurisdiction to grant Interim maintenance allowance till disposal of the case.
7. The petitioner has no income of own as there is no evidence to this end.
8. It can be presumed that the O/P is an able bodied person and either side claimed same regarding profession of OP that he does work in Pattam Company, though both differs regarding the quantum of earning. OP in his W/O mentioned that he is a labour at Patton company and earns Rs. 7000/- per month.

Contd.

9. Both sides filed affidavit as per the direction of Hon'ble Apex Court.

Hence, it is ordered that the application for interim maintenance by the petitioner is allowed on contest and finally disposed off. The O/P is directed to pay an amount of Rs. 1,000 (rupees one thousand only) p.m. to the petitioner and @ Rs. 500/- (rupees one thousand only) p.m for her minor child i.e. in total Rs.1,500/- (rupees one thousand and five hundred only) per month an interim maintenance allowance according to the English calendar by the 10th of each succeeding month till the disposal of this case in default of which petitioner would be at liberty to take recourse to law.

This order would have an effect from the date of filing of the petition of interim maintenance.

O/P is also directed to pay the arrear interim maintenance allowances which becomes due to the petitioner by dint of this order, to the petitioner within a span of seven (07) months in seven (07) equal instalments from this date.

Let a copy of the order of interim maintenance be given to the petitioner, free of cost, as per the provision of Section 128 of the code.

Fixing **08-03-2022** for for further evidence of the Petitioner.

Both side to come prepared.

D/C by me.

Sd/- Manojit Sarkar

J.M. 1st Court Uluberia

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