

Cr. MP No. 73/2022.

Reg. No. 1133/2022.

CNR No. HPKU01-003332-2022.

Smt. Heena alias Bhavna Jamwal Vrs. Ashwai Kumar Jamwal.

23.3.2023.

Present:

Sh. R.L. Thakur, Adv. for the petitioner.

Sh. Dev Raj, Adv. for the respondent.

Heard on application for interim maintenance. As per application, the petitioner has filed an application under Section 125 Cr. P.C for the grant of monthly maintenance against the respondent, which is pending for adjudication before this Court. The petitioner has got no source of income for her livelihood and she is living in a rented accommodation and the respondent has not made any provision for her maintenance despite the fact that respondent is owner in possession of sufficient landed and house property at Sainj and Sarkaghat and also having fruit bearing orchard . The monthly earning of the respondent from all the sources is more than rupees one lac per month. The respondent was asked time and again to pay expenses of rupees 15,000/- per month as monthly maintenance to her, but the respondent has totally refused to admit the request/claim of the petitioner. Hence, the petitioner has

prayed that the application be allowed and respondent be directed to pay a sum of rupees 15,000/- as litigation expenses and rupees 20,000/- per month to her as interim maintenance . In support of her averments, the petitioner has also filed an affidavit with the application.

2. In reply, the respondent has averred that he is still ready and willing to maintain the petitioner in his house according to his status and , as such, the petitioner be directed to join the society of the respondent for the better future of the minor children. . The petitioner is habitual of leaving the house of the respondent and he has made a missing report/complaint before the police of Police Station,Sainj on 12.11.2017. The respondent also filed an application under Sections 97,98 Cr. P.C for issuance of search warrant of the petitioner , on the basis of which, the Sub Divisional Magistrate, Banjar issued the Search Warrant on 17.1.2018 and the petitioner was recovered from the house of one Amarjeet Kaur , resident of Purana Road Line Par, Tehsil Bhadargarh,Distt. Jhajjar and brought to the house Again, the petitioner has left his society without any reasonable cause and excuse. The petitioner has also left minor son and daughters with the respondent . Several times, respondent requested the petitioner to join his company, but

she has refused . On the application of the petitioner a customary divorce deed was executed on 20.4.2018 in the presence of marginal witnesses. He has also averred that on 23.4.2018, the Protection Officer has forwarded relevant record to this Court for further proceedings . She is causing mental as well as physical violence to him. The respondent is unemployed having no source of income and he has no landed property in his name anywhere in H.P or India. and prayed for the dismissal of the application.

3. The respondent filed affidavit of assets and liabilities and as per affidavit of respondent , his monthly expenses are at rupees 15,000/- approximately. As per affidavit of petitioner, her monthly expenses are about rupees 12,000/- approximately including rent of rupees 5200/- per month and other household expenses and day-to-day necessities.

4. It is not disputed that petitioner is not residing in the house of respondent and she is residing in the rented accommodation and is paying rent to the landlord. The respondent being the husband of the petitioner is legally as well as morally bound to pay interim maintenance to his wife -petitioner. During the course of arguments, it has been admitted that no maintenance is being paid by the respondent

to the petitioner. The respondent is able bodied person and can easily earn rupees 15,000/- per month by doing the labour work and he can spare a sum of rupees 3,000/- per month as interim maintenance for his wife. Respondent cannot escape from his liability to maintain the petitioner on the ground that she is not ready to join his company.

5. Taking into account all the facts and circumstances of the case, I am of the considered opinion that petitioner being the wife of respondent is entitled to receive the interim maintenance as it is undisputed fact that applicant is living separately in a rented room from the respondent. The parties have levelled allegations and counter-allegations against each other, which shall be decided, on merits, in the main petition in the light of evidence of the parties. At this stage, admittedly, respondent being the husband of the petitioner, is under legal and social obligation to make provisions for her interim maintenance. There is nothing, on record, to show that the petitioner has got any source of income, whereas, the respondent has filed affidavit of assets and liabilities showing his monthly expenses at rupees 15,000/- per month, as stated herein above. The petitioner has to incur expenditure of her day-to-day needs. So, the present application for

interim maintenance is hereby partly allowed to the effect that respondent is directed to pay interim maintenance to the tune of ₹.3000/- per month to the petitioner Heena from 01.08.2021 . The application, thus, stands disposed of. It be tagged with main file.

6. Let the main file be listed for recording the evidence of the petitioner and making the payment of interim maintenance on 28.4.2023. Steps , if any , be taken within seven days.

Sd/-

(Davinder Kumar),
Principal Judge,
Family Court, Kullu, HP.

[Jeet].

District Court
Kullu.