

MR 433 of 2024

Order dated: 18.12.2024

Today is fixed for interim hearing positively and W/O, in the meantime.

Both sides file their haziras.

OP files W/O alongwith photocopy of some documents. Let the same be kept with the record.

On consent of both sides, the case record is taken up for hearing in respect of interim application.

Heard both sides.

Now, the case record is taken up for passing necessary order in respect of interim maintenance petition filed by the petitioner.

This is an affidavit application by the petitioner under section 125 Cr.P.C. claiming interim maintenance for herself from the O.P./husband to the tune of 15,000/- per month for herself and Rs. 10,000/- for her minor child.

After filtering out the unnecessary fact, the factual matrix in brief of the petitioner's and O.P.'s case are as follows:-

The brief facts of the petitioner's case that the petitioner is legally married wife of OP and their marriage was solemnized as per Muslim Rites and Customs 14 years ago. At the time of marriage, gold ornaments, furniture, valuable articles etc. and cash amount of Rs. 95,000/- were given to the OP and his family members. After the marriage the petitioner started to lead her conjugal life with the OP in a joint mess and out of their wedlock a female child namely, Simran Yeasmin (now 07 years old) was born. The OP alongwith his family members started inflicting torture upon the petitioner physically and mentally for more dowry and somehow, the petitioner's parents provided an amount of Rs. 50,000/- but inspite of that their torture did not decrease and they further demanded more dowry i.e. Rs. 2 lakhs and lastly on 06.04.2024, they assaulted and drove her out with the minor child. She also lodged a complaint and bridal torture case was initiated against the OP and his family members. Since then, the petitioner along with her minor child is residing at her paternal house upon the charity of relatives and well wishers having no source of income of her own. On the other hand, the OP is mason contractor and is earning Rs. 50,000/- to Rs. 60,000/- per month and he has pucca house with some bighas of land but he is not paying any amount for maintenance towards her wife or maintenance of her minor child.

On the contrary, the OP admitted the marriage and paternity of child but denied all the allegations labelled against him. In addition to his denial, the OP stated that the petitioner never did her lawful duties towards OP and his family members and she never pay respect to the OP. The petitioner was always busy in her phone and even pressurized the OP to give talak by passing bad remarks and lastly, the petitioner left the OP voluntarily without any valid reason and deserted him. The instant case is completely false. The OP being a day labour is holding Job Card and Labour Card and by working, he earns Rs. 4,000/- to Rs. 4,500/- per month on the basis of no work no pay. On the other hand, the petitioner prepares nighty and also does some handloom works and earns Rs. 15,000/- per month. Hence, the instant petition should be rejected.

Decision with reasons

On careful perusal of the interim maintenance petition and written objection to the same, I find that petitioner is the wife of the O.P and the

Contd....order dated: 18.12.2024

minor child was born out of their wedlock. The O.P. denied his income as stated by the petitioner. From the materials on record, it appears to me that the petitioner and the O.P. are living separately from each other. I find allegation and counter allegation made by each party. The question whether petitioner was driven out or voluntarily left the house is a matter of trial and it cannot be determined at this initial stage. But I find that petitioner a derelict woman alongwith her minor child, has been passing her days in great hardship owing to the financial crunch and has been rendered an additional burden to her parents. Thus, in my view if the petitioner being the destitute lady and the minor child are not provided with the interim relief then she won't be able to survive her life and the life of her minor child. The sec. 125 Cr.P.C. is a social legislation and its object is to prevent vagrancy and destitution of wives, minor child and parents who are unable to maintain themselves. The petitioner in such distressing painful situation seeks maintenance for herself and her minor child in the light of inflation in prices of commodities in order to lead a modest life free from burns of pains of hunger. On the other hand, the Opposite Party is claiming his income as Rs. 4,000/- to Rs. 4,500/- per month as well as petitioner's income as Rs. 15,000/- per month but no any authentic document has been brought. So I am of the view that the OP is able bodied and has sufficient capacity to pay the maintenance. But at the same time it also appears that he has to maintain his parents.

In my view, it will be just and proper, reasonable and sufficient in the instant case after considering the status of the parties, if the O.P. is directed to pay interim maintenance allowance at the rate of Rs. 2,500/- per month for the petitioner and Rs. 1,500/- for the minor child in such inflated market price of the essential goods for the survival of lives.

In my view quick disposal of this case is very much necessary. Thus, I direct both the parties to be ready for adducing their evidence by the next date

HENCE, IT IS

O R D E R E D

that the application for interim maintenance under section 125 Cr.P.C. is considered and allowed in part on contest.

The petitioner is entitled to get an amount of Rs. 2,500/- per month for herself and Rs. 1,500/- per month for her minor child towards interim maintenance allowance from the opposite party from the date of filing of this case.

The opposite party is directed to make payment of Rs. 4,000/- per mensem to the petitioner for her maintenance as well as for the maintenance of minor child within the every 10th day of every succeeding English calendar month, failing which the petitioner would be at liberty to execute the order so passed.

A copy of this order is given to the petitioner free of cost. The petition for interim maintenance is thus disposed of.

Fix **21.06.2025** for evidence.

D/C by me,

**Addl. Chief Judicial Magistrate,
2nd Court, Lalbagh, Murshidabad.**

**(QAISER ALAM)
Addl. Chief Judicial Magistrate,
2nd Court, Lalbagh, Murshidabad.**