

Najima Bibi

Vs.

Tohur Sk

As fixed the record is taken up on this date for passing order.

- 1. Before passing any order it would be apt to take a succinct view of the instant case. The petitioner's case as put forward by her is that she is the lawfully married wife of the O.P herein and their marriage was solemnized about 31 years ago according to Muslim law and thereafter she lived with the OP as husband and wife. She gave birth to three children who are all now major and married and having their own families. During her conjugal life the petitioner was tortured by the OP for demand of more dowry money of Rs. 1,00,000/. Thereafter OP drive her out from his house on assaulting her about one month ago. Thereafter, OP again took her back to his house after one week and then again assaulted her with an iron rod and drove her out from his house. The petitioner being neglected and refused to maintenance by OP, having sufficient means and being tortured by OP has come up before this court praying for Rs.7,000/ p.m for herself towards her interim maintenance. The petitioner has no independent source of income of her own. Whereas, the OP earns about Rs. 30,000/- 35000/ per month as he is a mason contractor. He also has 3 cottahs of landed property. OP is willfully neglecting and refusing to maintain her . Hence, this application.*
- 2. The O.P on the other hand had denied all the material allegations of the petitioner. But the factum of marriage is admitted. He had stated that the O.P never used to inflict mental and physical torture upon the Petitioner neither he demanded any money nor he refused to maintain the petitioner. OP is a heart patient so he works only for 04 days in a week . He earns Rs. 300/ per day and has to maintain himself and bears his medical expenses. Due his poverty the petitioner has has willfully left the house of OP . Although OP tried to bring her back from her father's house but she refused to return to OP. Thus, he has prayed for rejection of this application of the petitioner.*
- 3. In view of the submissions of the Ld. Advocate for petitioner and O.P, I am of the opinion that it is the admitted position that marriage had taken place between the petitioner and OP about long back 31 years ago. I find that both parties have not filed any scrap of paper in*

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support of their contentions. Petitioner has not stated in her application as to at which place she is residing after being allegedly driven out from OP's house. Although the OP has stated that the petitioner has left him for her father's house. I find the petitioner has not filed any document to show prima facie that that she was allegedly assaulted by OP with an iron rod and driven out by him when she has herself stated in her application that after driven out OP had taken her back after one week . I find that even at the time of hearing of interim application OP expressed his willingness to take the petitioner back . Thus, I find that the petitioner has prima facie failed to show any just and sufficient cause for living separately from OP after 31 years of marriage when OP is still willing to take her back.

4. Hence, I find no reason to allow the interim maintenance application of the petitioner.

5. Hence,

it is,

Ordered

that the interim maintenance application of the petitioner is duly considered and stands refused on contest. Thus, the interim application is disposed of.

Let a copy of this order be given to the petitioner free of cost.

Fix 20.06.2022 for evidence.

Sd/- C. Hasmat

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