

**In the Court of Judicial Magistrate, Additional Court, Lalbagh,
Murshidabad.**

Present :- Shrinivas Prasad Shah

M.R. Case No. 1171 of 2022

(C.I.S. Registration No. 1171 of 2022

Order Dated :-30-03-2024:-

Parties file hazira.

The application for interim maintenance filed by the petitioner on 31-10-2022 is taken up for hearing.

Heard the Learned advocate for both sides.

Now the record is taken for passing order.

Here the petitioner Rojina Bibi claiming herself to be legally married wife of the opposite party Hasimuddin Sk. has prayed for grant of interim maintenance allowance of Rs. 10,000/- p.m. for herself and Rs. 10,000/- p.m. each for her two minor sons.

The case of the petitioner is that, her marriage was solemnized with the opposite party on 13-08-2008, according to Muslim Shariat. After marriage she led conjugal life with the opposite party in her matrimonial house and from their wedlock two male child were born to the petitioner. Allegedly, the petitioner was subjected to physical and mental torture by the opposite party husband and his family members and under compelling circumstances she had to leave her matrimonial house along with her minor sons on 12-09-2022. The petitioner is now passing her days in financial stringency and staying in her parental house along with her two minor sons. The opposite party is stated to have refused and neglected to maintain both of them. According to the petitioner, the opposite party is an able bodied person and used to work as Rajmstri. He has earning to the tune of Rs. 50,000/- p.m. and from his landed property. In the light of such fact the petitioner has prayed for grant of interim maintenance allowance for herself and her minor son.

The opposite party in his written objection has admitted the marriage with the petitioner wife and the paternity of the minor sons but denied other allegations leveled against him. According to him the petitioner left his company on her own accord.

Contending the fact that he is a day labour and his monthly income does not exceed Rs. 250/- p.m. to Rs. 4,500/- p.m. and further contending that the petitioner is having independent income of her own to the tune of Rs. 4,000/- p.m. to Rs. 5,000/- p.m. from her job of sewing, the Opposite Party has prayed for rejection of the application for interim maintenance.

I have perused the affidavit for assets and liabilities filed by both sides. As per decision of Hon'ble Apex Court in **Rajnesh Vs Neha**¹.

Here, the status of the petitioner as the legally married wife of the Opposite Party, the paternity of the minor sons and the fact that she has been staying separately along with her minor sons are not in dispute. There is no glimpse of any material in the record to suggest that the Opposite Party provided maintenance to the petitioner and to her minor sons till date or that the Petitioner is having independent income of her own sufficient to maintain herself and her minor sons as contended. Considering the facts and circumstances of the case and material in the record, I feel no hesitation to allow the application for interim maintenance.

Hence,

(2021)2 SCC 324 this court is of the opinion the petitioner is entitled to get maintenance from the date of interim application.

Hence, it is

ORDERED

that the application dated 31-10-2022, filed by the petitioner praying for interim maintenance is allowed in part on contest without any costs.

The petitioner does get an interim maintenance allowance of Rs. 2,000/- (Rupees Thousand Only) per month for petitioner and Rs. 1,000/- for her each minor (Rs. 2,000/-) for both child. Total of Rs. 4,000/- (Rupees four Thousand Only) as interim maintenance allowance from the date of filing of interim application, i.e. 31-10-2022.

This order of interim maintenance shall take effect from the date of interim application i.e. 31-10-2022.

The opposite party is directed to pay the arrears interim maintenance of each month along with with current month's maintenance.

The opposite party is directed to pay arrears interim maintenance of one month along with current month's maintenance within the 10th day of the succeeding month as per English Calendar ; failing which the petitioner will be at liberty to put this order in execution.

Let a copy of this order be supplied to the petitioner free of costs at once.

Fix **05-08-2024** for evidence.

Typed by me

Sd/- S.P. Shah
Judicial Magistrate
Additional Court,
Lalbagh, Murshidabad

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Judicial Magistrate
Additional Court,
Lalbagh, Murshidabad