

M.R - 1191 of 2022
CNR no. – **WBMD09-005309-2022**
J/O Code: WB01095

Order dated- 22.06.2023

Today is fixed for passing order in connection with petition for interim maintenance.

Heard both sides on previous occasion.

The record is taken up for passing order of the petition and consideration of the prayer of petitioner who prays for grant of interim maintenance to the tune of Rs.10,000/- per month for herself and Rs. 5,000/- per month for each of her two minor children from the O.P.

Perused the case record.

It appears from the petition that the petitioner is the legally married wife of the O.P. Their marriage was solemnized on 11.04.2012 as per Muslim rites and customs. At the time of marriage petitioner's father provided ornaments, furniture, other gift articles to the OP. After her marriage, petitioner went to her matrimonial home to lead her conjugal life with the OP. She gave birth of two children. Soon after her marriage, OP and his family members started ill behaving with petitioner. They started demanding money from parents of petitioner. Petitioner failed to provide money as per their demand. Infliction of torture upon petitioner was intensified. On 10.08.2022 the OP assaulted petitioner and drove her out along with her minor children. Thereafter, the petitioner has been residing at her paternal home with her minor children. Thereafter on 01-10-2022 am the OP and his family members came to the paternal home and again demanded Rs. 1,00,000/-. Petitioner has no independent source of income. OP is a labour contractor. He earns Rs. 60,000/- per month. He has landed property. During her separate stay, OP never provided any maintenance to the petitioner and their minor children.

Petitioner filed asset and liabilities on affidavit.

The petitioner has presented the instant petition on the ground that O.P does not provide any maintenance to her and to their minor children. OP willfully neglected to provide the same.

At this initial stage, though this Court has no scope to peruse the fact of willful refusal on the part of the O.P. or to look into his income, but it is well settled that the object of section 125 Code of Criminal Procedure is meant to achieve social purpose. Its object is to prevent vagrancy and destitution. The vital duty has been cast upon the trial court to pass a prompt order in the form of Interim maintenance where situation warrants so.

Being a husband, O.P is duty bound to maintain his wife who is incapable to maintain herself. It can be presumed, prima facie, that O.P has capacity to maintain his wife and children. OP has denied his income and his occupation by filing written objection. Not only that he stated that petitioner has own income but without holding trial I am not in a position to consider the submission of OP. It could be presumed from the pleading of the petitioner that OP never provided any maintenance to his wife and children during their stay at her paternal home. In our society no married woman generally left her

matrimonial home without any cogent reason. In the instant case petitioner alleged that OP inflicted torture upon her and she was driven out. She made her allegation on affidavit.

In the present circumstances, I am to hold that the petitioner is entitled to get an order of interim maintenance for herself and her children from the date of filing of the instant case till the disposal of the instant M.R Case.

Hence, it is,

:ORDERED:

The petition for interim maintenance is hereby allowed on contest in part. The petitioner is entitled to get an amount of Rs.2,000/- (two thousand) per month for herself and Rs.1,000/- (one thousand) per month for each of her two minor children towards maintenance allowance from the date of filing of this application. Thus, the OP is directed to pay Rs.4,000/- per month for the interim maintenance of the petitioner.

The opposite party is directed to make payment of interim maintenance at the tune of Rs.4,000/- per month to the petitioner within the every 8th day of every succeeding English calendar month for which it becomes payable and due and failing which the petitioner will be at liberty to execute the order so passed.

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

To 24.07.2023 for payment and for evidence.

D/C by me

Sd/- N. Ghosh
A.C.J.M, 2nd Court
Lalbagh

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