

IN THE COURT OF Ld. JUDICIAL MAGISTRATE, TEHATTA, NADIA

Present: Bedashruti Mallik, WBS

Misc CrI Case No. 37 of 2024

Interim Matter u/s 23 of the PWDV Act, 2005

Order Dated: 01.10.2024

Today is fixed for filing show cause by the OP and interim hearing.

The parties file hazira. OP files his SC.

Interim hearing is done.

Now the record is taken up for passing interim order in respect of the application for interim maintenance dated 15.04.2024 filed by the petitioner, namely, **Merina Bibi**, u/s 23 of the Protection of Women from Domestic Violence Act of 2005. The petitioner by filing this interim maintenance petition has claimed interim relief for herself and her two minor children.

The case of the petitioner in brief is that she is the legally married wife of the respondent no. 1, namely, Jiarul Mondal. The marriage between petitioner and the respondent no was contracted 10 years prior to the filing of the instant case according to Muslim Sharia. During the course of her marriage two sons were also born out of the said wedlock namely Alamin Mondal and Masum Mondal. At her matrimonial house the respondents abused the petitioner physically and inflicted both mental and physical torture upon her for dowry demands. Finally on 15.01.2024 at about 01:00 PM the respondents brutally assaulted the petitioner and drove her out of her matrimonial house along with her two minor children. When the petitioner lodged written complaint before Thanarpara PS, the respondent no. 1 came and fetched her back to her matrimonial house under the false pretext of mitigation. But the persecution upon her never stopped. Further on 18.03.2024 at about 10:00 PM the respondents assaulted her again. Respondent no. 4 came to her room and tried to commit rape upon her. The other respondents tried to strangle her neck as a result of which the petitioner fell sick. She was rescued by the local people. Next day, the parents of the petitioner came to her matrimonial house and was compelled to take away the petitioner along with her children. Since then, petitioner has been staying at her matrimonial house along with her children with great hardships. The respondent no. 1 has not taken any information nor paid any maintenance towards the petitioner or her children. The respondents are threatening to not allow the entry of the petitioner at her matrimonial house. The petitioner has no independent source of income and living with great hardships.

On the contrary, the respondent is an able bodied person, owns a pucca house, has several landed properties, and deals in jute and chaff business. In total he earns a monthly income of Rs. 40-50,000/-. Petitioner also submits that the respondent no.1 is wilfully neglecting to maintain his wife and children and has caused her loss by confiscating her Stridhan articles. She has prayed for interim maintenance for herself and her two children from the respondent no. 1.

The respondents made their appearance and objected to the contentions of the petitioner by filing their show cause, wherein, the respondent, inter alia, denied and disputed all the allegations raised by the petitioner against them. The respondents contend that since her marriage the petitioner was unable to adjust at her matrimonial house, constantly misbehaved with her in laws. She also refused to perform any household chores, and lived as per her own whims. She also pressurised her husband to provide her a separate mess and frequented her paternal house without any prior

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information. Finally she went to her paternal house voluntarily along with her two children, and has refused to come back ever since, despite much efforts by the respondents.

Further the respondent states that the petitioner earns Rs. 5000/- per month by working as a seamstress. On the contrary the respondent is a day labour and earns Rs. 300-350/- per day and sometimes nothing at all. Further he has his aged and ailing parents dependent upon him. In the above premises, the respondents prayed for dismissal of the matter.

It appears from the record that the report of the protection officer has not yet come.

This is an interim stage and while adjudicating interim matters it is the general prudence that the Court has to strike a balance between the contentions of the contesting parties as no such cogent evidence remains in the hands of the Court. Although it is fact that both the sides, in this case, have submitted copies of some documents, but the imputations raised by the respective parties can only be determined after having substantive and corroborative evidence in hand.

The mere statement of the petitioner that she is unable to maintain herself is sufficient for getting a maintenance order under section 125 Cr.P.C, which is in consonance with the PWDV Act and it would be for the husband to prove otherwise. But, in the instant case, the husband has not brought anything to prove that he was not negligent in providing maintenance towards his wife. It is a solitary principle of law that every husband is bound to maintain his wife and children. Further, driving out of the applicant/petitioner from the house of the O.P./respondent is itself domestic violence upon the petitioner. So, considering the above stated facts and circumstances, I am inclined to hold that this is a fit case for allowing monthly maintenance only towards the petitioner for monetary relief in form of interim maintenance only.

Therefore, the applicant/petitioner is entitled to get a monthly maintenance of Rs. 2,000/- per month for herself and Rs. 1000/- each for her two minor children. This court is also inclined to hold that this amount is sufficient for her maintenance as per her status, situation and social condition.

The other prayers of the petitioner do not seem to be of urgent nature and hence they are refused at this stage.

Hence, it is

ORDERED

that the instant interim petition is allowed on contest in part.

Henceforth the petitioner does get an interim order U/S 23 towards monthly maintenance allowance to the tune of **Rs.4000/-(Four thousand) per month** for herself and her two children from the O.P./respondent no. 1, from the date of filing of this case, i.e. 15.04.2024, payable by the O.P./respondent no. 1, within the every 15th day of every succeeding English calendar month, failing which the petitioner would be at liberty to execute the order so passed.

Let the copy of this order be handed over to the petitioner free of cost.

To for DIR and evidence. Petitioner to file requisites.

D/C by me,

Sd/- B. Mallik

Judicial Magistrate,

Tehatta, Nadia

Sd/- B. Mallik

Judicial Magistrate,

Tehatta, Nadia