

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

Present: Bedashruti Mallik, WBS

MR Case No. 88 of 2023

INTERIM ORDER

Order Dated:26.11.2024

Today is fixed for hearing the petition for vacating ex parte order.

Both the parties file hazira. Petition is heard.

Prayer of the respondent is allowed by imposing a cost of Rs. 500/- payable by respondent no. 1 to the petitioner.

Interim hearing is done.

At this stage the case record is taken up for passing interim order for maintenance in respect of petition filed by the petitioner namely **Sathi Ganguly** U/S 125 of CrPC for interim maintenance. The petitioner by filing this interim maintenance petition has claimed maintenance for herself and her minor son.

The case of the petitioner in brief is that petitioner is a legally married wife of the O.P. The marriage between petitioner and the O.P. was solemnized 05 years prior to the filing of the case as per Hindu rites and customs. At the time of marriage, the father of the petitioner paid cash of Rs. 1,85,000/-, 5 bhories of gold ornaments, furniture and other valuable articles, as per the demand of the OP and his family members. Thereafter the petitioner went to her matrimonial house with the OP and started living their conjugal life. Later the petitioner gave birth to one son out of the said wedlock namely Ayush Ganguly aged 1 year 9 months at the time of filing. The further case of the petitioner is that since the birth of her child, the O.P. and other in laws started to inflict torture both physically and mentally upon the petitioner for more dowry demands. When she was unable to arrange the said money, the persecution upon her intensified. She was refused adequate food and clothing, and was often instigated to commit suicide. She was also kept locked in a separate room. The OP also threatened the petitioner to divorce her, if she fails to fulfil the dowry demands. The OP also had one illicit affair. Finally on 16.04.2023 at about 08:00 PM, the OP and his family members brutally assaulted the petitioner and tried to strangle her. When she was rescued by the local people, the OP and his family members drove her out of her matrimonial house along with her minor son, after confiscating all her Stridhan articles. The petitioner was compelled to take shelter at her paternal house. Further on 18.04.2023 at about 07:00 PM, the OP and his family members came to paternal house of the petitioner, and assaulted her. When the local people came to rescue her, the OP and his agents left. The petitioner had to seek medical attention for the injuries she sustained for the said assault. Later she also filed one criminal case against the OP and his family members before Murutia PS. Since then has been residing at her paternal house with great hardships. The further case is that the petitioner has got no source of income and is living fully on the mercy of her father. The OP never took their information or paid any maintenance towards her or her minor son. On the contrary the O.P. is an able-bodied person, owns two pucca houses over 8 decimals of land, works a LIC agent, owns one catering business, and one jewellery store namely "Sabita Jewellers". In total, he earns Rs. 1,00,000/- per month. Thus, the petitioner has prayed for interim maintenance of Rs.35,000/- per mensem for herself and Rs. 25,000/- per mensem for her son from the OP.

The opposite party appears before this court and filed written objection against the application for interim maintenance allowance and denied and disputed each and every fact stated therein. The OP contends that that the marriage between both the parties was a result of an affair between both of them. Later the parents of the petitioner accepted the marriage after she conceived. However, the petitioner was not able to adjust with the OP as he was unemployed. When the petitioner wanted to visit her paternal house, the OP himself took her to the said house. Later the son of the petitioner fell sick, and she asked to OP to immediately come to her paternal house. However, the OP was unable to do so, on account of a bus-strike. Next day when he reached the paternal house of the petitioner, her parents insulted the OP, and he left. Later the petitioner upon the instructions of her parents filed a false case

: 2 :

MR Case No. 88 of 2023

against him. The OP also tried to fetch the petitioner but in vain. He is still willing to live with the petitioner.

The OP also states that he works as a staff in a shoe shop and earns Rs. 300/- per day. His aged mother is also solely dependent upon him. On the contrary, the petitioner earns Rs. 8-10,000/- per month as a seamstress and as a beautician. Therefore, in the above circumstances the opposite party prays for rejecting the prayer of interim maintenance allowance by the petitioner.

I have heard both the parties and perused all the documents and affidavit of assets and liabilities filed by them. After hearing both the sides I have carefully gone through the instant petition, the documents filed by the parties, and other materials on record. This is the interim stage and this Court is not in a position to determine the merit of the case without having any cogent and substantive evidence. As no substantive evidence has come out yet this Court is only to rely on the materials on record as it is S.125 of Cr.P.C is outcome of socio-economic legislation. The merits and demerits of the case will be looked into at the time of evidence.

Considering the present hike of essential commodities and considering the avocation of life of the O.P, I am of the opinion that the petitioner is entitled to get Rs.2000/- per month for herself and Rs. 1,000/- per month for her minor son as interim maintenance.

Hence it is

ORDERED

That the petition filed by the petitioner U/S 125 of Cr.P.C. for interim maintenance is allowed in part on contest against the O.P. Petitioner is entitled to get interim maintenance of 3000/- per month from the O.P for herself and her child. Thus, the O.P. is directed to pay **3000/- (Three Thousand) per month** for the interim maintenance of the petitioner within 15th day of each succeeding month for which it becomes payable and dues, failing which the petitioner is at liberty to file for execution against the OP. The order is effected from the date of filing of the instant petition, i.e. 19.05.2023.

As written objection in respect of the main petition is already filed by the O.P,

Fix for evidence.

D/C by me,

Sd/- B. Mallik

Judicial Magistrate,

Tehatta, Nadia

Sd/- B. Mallik

Judicial Magistrate,

Tehatta, Nadia