

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

Present: Bedashruti Mallik, WBSJ

MR Case No. 182 of 2023

INTERIM ORDER

Order Dated: 17.08.2024

Today is fixed for fling show cause and interim hearing.

Both the parties file hazira. OP files his SC along with some other documents.

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 **Espita Mondal** U/S 125 of CrPC for interim maintenance. The petitioner by filing this interim maintenance petition has claimed maintenance for herself.

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 02 years prior to the filing of this case as per Hindu rites and customs. At the time of marriage, the father of the petitioner paid cash of Rs. 2,00,000/-, seven *bhoris* 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. The further case of the petitioner is that soon after the marriage, in the matrimonial home the O.P. and other in laws started to inflict torture both physically and mentally upon the petitioner for more dowry demands. When the petitioner expressed the incapability of her father to fulfill such demands, the torture upon the petitioner further intensified. Finally on 24.04.2023 the OP and his family members brutally assaulted the petitioner and drove her out of her matrimonial house after confiscating all her *Stridhan* articles. Thereafter, the petitioner filed one criminal case against the OP and his family members before Tehatta PS which is *sub judice*. The petitioner 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. The OP never took their information or paid any maintenance towards her. On the contrary the O.P. is an able-bodied person, owns a pucca house, 10-12 bighas of landed properties, one shallow machine, and works in a company. In total, he earns Rs. 50,000/- per month. Thus, the petitioner has prayed for interim maintenance of Rs.20,000/- per mensem for herself 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 the marriage of the parties were fixed but the OP came to know that petitioner has already married one Sushanta Biswas S/O Subhra Biswas of Radhanagar Madhyampara PS. Palashipara. The name of the husband of the petitioner is also mentioned in her electoral list. The petitioner had suppressed her marriage and the fact that she also has one child out of the said wedlock to the OP. Later the family members of the petitioner called him home and took him to a nearby temple wherein they forced him to put vermilion on the head of the petitioner. The OP thereafter never lived with the petitioner as husband and wife. When the OP refused to recognize the petitioner as his wife before obtaining divorce from her existing husband, the petitioner filed one criminal case against him and his family members.

The OP also states that he is a day labour and earns Rs. 250-300/- per day. Further he has his aged and ailing parents are dependent upon him. Therefore, in the above circumstances the opposite party prays for rejecting the prayer of interim maintenance allowance by the petitioner.

This is the interim stage. At this juncture this Court has to rely on the materials available to it in hand as the matter relates to socio-economic legislation. At this juncture, Court also has to find a middle way to come into conclusion in respect of the instant application. It be mentioned here that the Opposite party has challenged the factum of marriage with the petitioner, the Court is also to strike a balance between the claim of the petitioner and the contention of the OP as well. In such cases, contentions of both the parties must be backed by trustworthy reasons. From the copy of the electoral

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list as provided by the OP dated 05.01.2023, it seems that the husbands name of the petitioner is enlisted as Sushanta Halder. Further, the copy of the Aadhar card as provided by the petitioner reveals that Dipankar Mandal is the name of her guardian. It also appears that the issuing date of the Aadhar card is 21.02.20213 while the it is mentioned in the petition that the petitioner married the OP 02 years prior to the filing of this case, ie in the year 2021. It appears that the petitioner has failed to disclose a lot of materials, and does not seem to approach this Court with clean hands.

Although it is a fact that s.125 CrPC was enacted in order to economically empower the weak and downtrodden people of our society, I think that weapon should be used very cautiously.

In the light of the facts and circumstances of the instant matter, I do not think the petitioner is entitled to any interim maintenance, and within the periphery of the instant matter, the matter in dispute can only be decided after having substantive, reliable, cogent and corroborative evidence come in the hands of this Court.

Hence, it is

O R D E R E D

that the petition u/s 125 Cr.P.C filed by the petitioner Espita Mondal, dated 03.11.2023 praying for interim maintenance is hereby considered and rejected on contest without any cost.

Fix for filing Evidence.

D/C by me,
Sd/- B. Mallik
Judicial Magistrate,
Tehatta, Nadia

Sd/- B. Mallik
Judicial Magistrate,
Tehatta, Nadia