

M. Case No. 45 of 2023

Interim Matter

Order Dated 13/05/2024

Today is fixed for passing interim order in respect of the application for interim maintenance dated 23/11/2023 filed by the petitioner, namely, Debductta Poddar, u/s 125(3) of the CrPC.

The petitioner by filing this interim maintenance petition has claimed maintenance for herself from the OP, being her husband. The case of the petitioner in brief is that the petitioner is a legally married wife of the O.P, namely, Debajyoti Sinha. The marriage between petitioner and the O.P. took place on 05/04/2022 under the Hindu Marriage Act which was later solemnized according to Hindu Rites and customs. At the time of marriage the petitioner's father gave valuable articles. Since their marriage the petitioner and the O.P started living their conjugal life in the latter's house at Singha Villa, Military Road, Rampurhat, Dist. Birbhum.

The petitioner further contended that since the very inception of her marriage she had been subjected to physical and mental torture by the Op on further demand of dowry. Although the petitioner and her parents somehow managed to satiate the illegal demand of OP, subsequently failure to fulfill the same on the part of the petitioner, the intensity of persecution was increased. Moreover, the petitioner contended that the OP not only used to neglect her of general amenities, but also used to slander the petitioner with vulgar words even in presence of her parents. The petitioner also alleged that the intensity of the torture was such that she had to consult with psychiatrist. Now, being unable to bear the torture on the part of the OP, the petitioner stated that, she is living under financial stringency at the house of her parents. Over the period the OP neither took any news of the petitioner nor provided anything towards her maintenance. The petitioner contended that the OP earns about more than ₹ 4,00,000/- per mensem from his business and various other sources. She has prayed for interim maintenance of ₹ 50,000/- per mensem for herself from the OP husband. In support of her contentions, she has also filed affidavit of assets and liabilities.

The OP made his appearance and objected to the contentions of the petitioner by filing his written objection. In his W.O, the OP, inter alia, denied and disputed all the allegations raised by the petitioner against him. The OP alleged that the petitioner left him without any just cause and despite there were sincere efforts on his part to continue conjugal life with the petitiioenr, only due to intentional avoidance on her part it could not be fulfilled. The OP further stated that the instant case was filed only in order to have wrongful gain without any sufficient cause. Regarding his income the OP need not disclosed anything specific. But the OP stated that the petitioner has her own income and is sufficient to sustain herself. The OP prayed for dismissal of the matter. In support of his contention, the OP also filed his affidavit of assets and liabilities which is perused by me.

On the last occasion both the sides were heard at length.

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. In this point the Hon'ble Supreme Court had an occasion to dwell upon this question whether the wife has to give proof that she is unable to maintain herself in ***Rajathi vs. Ganesan, (1999)6 SCC,326 at page 330***. Negating the contention that the wife has to prove her inability to maintain herself, the Hon'ble Court ruled that the statement of the wife that she is unable to maintain herself would be enough and it would be for the husband to prove otherwise. But, in the instant case, the husband has not brought anything to prove otherwise.

It is a solitary principle of law that every husband is bound to maintain his wife and children. When a person entered into a bonding of marriage then it is presumed that he is willfully accepted the liability of maintaining of his wife and children (if any).

Driving out the applicant/petitioner from the house of the O.P./respondent or inflicting severe physical assault and also depriving the wife and children from daily amenities is itself domestic violence upon the petitioner.

Moreover I further hold that it is incumbent and it is also the social and legal responsibility of the able bodied person to maintain his married wife and minor children. Here in this case the applicant/petitioner was not maintained by the O.P./respondent since parting. This is an interim stage and it is needless to say that at this moment this Court has no other alternative but to rely upon contentions of both the parties as it comes now in the hands of this Court. So, considering the above stated facts and circumstances, I am inclined to hold that this is a fit case for allowing monthly maintenance towards monetary relief in form of interim maintenance.

Therefore, the applicant/petitioner is entitled to get a monthly interim maintenance of ₹ 10000/-. This court is also inclined to hold that this amount is sufficient for their maintenance as per their status, situation and social condition.

Hence, it is

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

The petitioner does get an interim order U/S 125, CrPC towards monthly maintenance allowance to the tune of ₹ 10000/- per month from the O.P./respondent, from the date of filing of the instant application.

The O.P./respondent is directed to make payment of Rs.10000/- per month to the petitioner towards maintenance allowance within the every 10th day of every succeeding English month, failing which the petitioner would be at liberty to execute the order so passed.

This order will take effect for date of filing of the instant application, i.e. 23/11/2023.

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

To 23/08/2024 for evidence of the petitioner.

ACJM/Bidhannagar/North 24 Parganas

