

IN THE COURT OF JUDICIAL MAGISTRATE, 1st
COURT,
BASIRHAT, NORTH 24 PARGANAS.

Maintenance Case no.502 of 2022
CNR- WBNP 11-007179-2022
Tr. no.-11/23
J.O. Code: -WB01520

Order dated 05.07.2024:

1. Today is fixed for interim order.
2. Petitioner is present by filing hazira. Advocate hazira filed on behalf of the respondent.
3. Now the record is taken up for passing interim order.
4. The petitioner's case in nutshell is that she is the wife of the respondent namely Rakibul Molla. She got socially married with respondent on 28.05.2017 as per Muslim rituals and rites for the den mohar of Rs.2,001/-. At the time of marriage, petitioner's parent and relatives gave Rs.50,000/- in cash, gold ornaments and many other things as per the demand of the respondent and his family members. After marriage she moved to her matrimonial house and started her conjugal life. Out of wedlock, petitioner gave birth to a daughter namely Farhana Khatun aged 4 years now. After the birth of the daughter torture upon the petitioner increased by the respondent and his family members. Respondent tortured upon the petitioner as she gave birth to a daughter. Petitioner was pressurized to bring more money from her parent by the respondent and his family members. When such demand of money could not be fulfilled, petitioner was subjected to torture both physically and mentally. On 16.02.2022, petitioner was subjected to torture both physically and mentally by the respondent and his family members and was driven out of her matrimonial house along with her minor daughter without her stridhan article. Petitioner then took shelter in her father's house. Petitioner filed police case relating to the incident against the respondent and his family

members. Respondent has not given any maintenance nor inquired about the petitioner or her daughter after driven them out of his house.

5. Petitioner stated that she has no income of her own. On the other hand, respondent is able bodied person. He has his own house and land. Respondent does sew work and has seasonal business. From all source of income, respondent earns around ₹40,000/- per month. Petitioner therefore claims for maintenance @₹7,000 per month for herself and @₹3,000 per month for her minor daughter. Total of ₹10,000 per month.
6. Opposite party objected to such prayer by filing written objection and denied all the material allegation as alleged by the petitioner. Respondent admitted the marriage and the birth of daughter. Respondent denied the allegation of torture. Respondent stated in his written statement that he took her wife to her father's house while going for work in Tamil Nadu after lock down. When later respondent and his family members tried to bring her back, she did not come to her matrimonial house. Respondent was asked to give talak to petitioner to which he denied. When he denied to give talak, a false was filed against the respondent and his family members.
7. Respondent stated that he does not have any landed property. Respondent stated that he sells ice cream in a rented van and earns Rs.2,000-2,500/- per month. There are dependents under him. Thus prays for rejection of the interim maintenance petition filed by the petitioner.
8. To get the order of maintenance, petitioner required to prove that she is legally wedded wife of the O.P, the O.P. has refused to maintain her and her minor daughter and the petitioner is unable to maintain herself.
9. On perusal of the record, it appears that the respondent has admitted the marriage and the birth of daughter. Petitioner stated that respondent has not given maintenance to her after she was driven out of her matrimonial house and never inquired for petitioner or her daughter. Respondent stated in

his affidavit of assets and liability and written objection relating to income of the petitioner that she earns Rs.1,500-2,000/- per month as Bidi worker. In support of his claim, respondent has not submitted any document during the interim hearing. At this stage, it is not possible to decide without evidence, whether the petitioner earns or not. Petitioner in her petition and in her affidavit of assets and liability declared that she has no income of her own. Petitioner also submitted that in her matrimonial house she was subjected to torture both physically and mentally by the respondent and his family members. Respondent declared in his affidavit of assets and liability and written objection that he sells ice cream in a rented van and earns Rs.2,000-2,500/- per month.. It is pertinent to note that the object of Section 125 Cr.P.C is to give social justice to the women, child, and infirm parents and to prevent destitution and vagrancy by compelling those who can support themselves and have a moral claim to support. Considering the above mentioned observations and asset declaration of both the parties, this court is of the view that the interim maintenance application of the petitioner to be allowed at this stage. Rs.2,500/- in total will be sufficient as maintenance at this stage and it will not be a burden upon the respondent.

10. Hence, it is ordered that the interim maintenance petition be and the same is allowed on contest without any order as to cost. O.P. is hereby directed to pay maintenance @ Rs.1,500/- per month for the petitioner and Rs.1,000/- per month for the minor daughter. Total of Rs.2,500/- per month. Such order shall take effect from the date of filing of the case.
11. O.P is hereby directed to provide the money to the petitioner within 15th of every succeeding English Calendar month. Arrear maintenance amount to be paid by respondent to petitioner in 8 equal installments within 8 months from the date of this order in addition to the maintenance per mensem. Failing to comply this order, the petitioner is at liberty to proceed as per law.

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

13.To 29.10.2024 for evidence.

Typed by me.

**Judicial Magistrate, 1st Court,
Basirhat, North 24 Parganas.**

**Judicial Magistrate, 1st Court,
Basirhat, North 24 Parganas.
(J.O. Code: -WB01520)**