

M Case- 24/17
Order dated: 11/02/19

Both the parties are present by filing hazira.

Today is fixed for passing order.

The record is taken up for passing order in respect of interim maintenance petition filed by the petitioner against her husband claiming interim maintenance for herself Rs. 6000/-per month.

From the petition herein it is seen that the marriage between the parties was solemnized on 20/10/04 and the social marriage was solemnised on 08/12/04 as per Hindu Rites and and rituals and she moved to her matrimonial with all stridhan articles. Since after marriage she was subjected to physical and mental torture for the demand of more dowry and due to the dissatisfaction of the op and his mother about the quality of the matrimonial gifts. Soon they started demanding more dowry and on the occasion that such demand could not be fulfilled by the parents of the petitioner, she was subjected to even more torture to the extent that she was not give adequate food and maintenance. She was inhumanely tortured by the OP and his mother. Due to some gynecological problems the petitioner had to be treated with medical facilities which the op and his mother denied and started inflicting even more torture for which the petitioner had no other option but to inform such situation to her parents. Finally on 10/06/16 she was driven out of her matrimonial house and hence the case. Claiming herself to be an unemployed person states that the op to be an employee of Birla Company Car and Transport, the petitioner states his income to be Rs. 20,000/- per month and hence the prayer of of Rs. 6000/- per month as her monthly maintenance.

The OP by filing show cause to the instant petition denies all material allegations and further states that the petitioner had left her matrimonial house on her own sweet will without any prior intimation or reasons.

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The petitioner was never neglected or refused by the op who had been careful towards her since her marriage for long twelve of their staying together. The financial status of the first party is much higher than that of the op and this was disclosed to each other before marriage. Even after such different financial backgrounds the petitioner was offered sufficient medical facilities by the op which she refused to take and her parents due to her financial stability gave her such medical assistance. The op merely took a loan of Rs. 35,000/- from the father of the petitioner and repaid it back which cannot be depicted as dowry. Further that the op tried a number of times to bring the petitioner back to her matrimonial house but to no result because of the indifferent of the petitioner herself. Claiming himself to be employee of a security company states his income to be Rs. 20,000/- per month and hence prays for rejection of the application.

Having heard the submission of the Ld. Advocate for both the parties and after going through the materials on the record, it is found from the written objection as well as the interim maintenance petition that it is an admitted fact that the petitioner being his wife is living separately which makes a prima facie case for grant of interim maintenance at this stage.

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.

It is a solitary principle of law that every husband is bound to maintain his wife and child. When a person entered into a bonding of marriage then it is presumed that he has willfully accepted the liability of maintaining of his wife. The object of section 125 of Cr.P.C. is to prevent vagrancy and destitution.

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On perusal of the materials of record it is found that though the petitioner had contented the income of the op to be Rs. 20,000/- but did not file any document in support of such contention on the contrary to which op claiming his income to be Rs. 20,000/-per month and he also did not file any documents in support of his contentions.

In keeping with the standard of living of the parties I am of the view that an interim maintenance of Rs.2000/- per month to petitioner to be paid.

Hence, it is,

ORDERED

that the petition filed by the petitioner praying for interim maintenance is thus allowed on contest in part.

The OP is hereby directed to pay Rs. 2000/- per month to the petitioner from the date of this order within the 10th day of every month as interim maintenance allowance, failing which the petitioner will be at liberty to put the order in execution.

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

To _____ for evidence.

J.M 2nd Court, Barrackpore.

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