

M Case- 252/2021
Order dated: 06.06.2024

Today is fixed for interim hearing

Both parties files hajira. OP files affidavit of assest and liability

Heard both sides.

The record is taken up for passing order in respect of interim maintenance petition filed by the petitioner against her husband claiming interim maintenance of Rs.10,000/- for her self and for the minor child.

The petitioner's case in a nut shell is that she was married to the OP on 04.05.2014 according to Hindu Rites and Customs. In wedlock one child was born. After few days of marriage petitioner was subjected to mental and physical torture by OP. Claiming herself to be an unemployed lady and the OP is an able bodied man and earning of Rs.15,000/- per month and hence prays for monthly interim maintenance of Rs.10,000/- for herself and for the minor child.

The OP by filing show cause denies all the allegation made in the record and admitting the fact of marriage and the child and prays for dismiss of the petition. OP stated that his monthly income is Rs. 6000/- .

It is admitted fact by the parties that the child was intially in the custody of his father and later she was in the custody of her mother and at present she is in the custody of her teacher with the consent of her mother. The child is present in the open court. And on being asked she stated that her father visits her frequently in her Teacher's house. Thus at this stage without going into proper trial it is not clear before the court who is in the custody of the child. And at present neither the parents are in the custody of the child. Thus it is thre responsibility of boytth the partents to take care of their child. Thus at this stage the interim prayer for the child is rejected at this stage.

Petitioner has also stated in her affidavit of Assest and liability that she has monthly income of Rs. 6000/- but although she has verbally stated that at present she is not earning. Thus it is clear before the court that she is capable of earning.

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 along with their minor child which makes a prima facie case for grant of interim maintenance at this stage.

It is pertinent to mention the observation of Hon'ble Supreme Court of India, in **Rajnesh Vs. Neha (2021) 2 SCC 324** where the Hon'ble Court was pleased to observed in its page 39 that

"VI. The directions in view of the Foregoing discussion as contained in Part B I to V of this Judgement we deemed it appropriate to pass the following directions in exercise of our powers under Article 142 of Constitution of India:

(d) Date form which maintenance to be awarded We make it clear that maintenance in all cases will be awarded from the date of filing application for maintenance.

Keeping in mind all the aforesaid discussion and the observation of the Hon'ble Supreme Court and in order to ensure the social justice keeping in mind the status and income of the OP his liability, I am of the view that an interim maintenance of Rs.1000/- per month to be paid to the wife for the maintenance of herself . **The order is effective from the date of filing.**

Hence, it is,

ORDERED

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

The OP is hereby directed to pay interim maintenance of Rs.1000/- per month to be paid to the wife the wife for the maintenance of herself 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. This order is effective from the date filing. The arrear amount is to be paid by the OP within a period of **12 months in equal installments.**

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

To 03.12.2024 for evidence.

D/C by me,