

M. Case No 132 of 2022
Smt. Pampa Das (Kumar) Vs. Shri. Abhishek Kumar

Order dated. 11.01.2024

Today is fixed for passing order.

Both the parties files hazira.

Record is taken up for passing order with regard to the interim maintenance petition filed by the petitioner.

The petitioner's case in a nut shell is that she was married to the OP on 18.01.2015 according to Hindu rites and customs and the marriage was duly registered on 25.05.2015. At the time of marriage the petitioner was gifted with gold ornaments, clothes, household articles and other valuable articles. The petitioner went to her matrimonial house and all her stridhan articles were entrusted to the OP and his family members. The marriage between the parties was duly consummated but no issue was born out of the wedlock. It is submitted that since after marriage the petitioner has been subjected to mental torture. At the time of marriage all the demands of the OP and his family members was fulfilled. Even after marriage, the father of the petitioner had given an amount of Rs.30,000/- to the OP as per his demand for buying the furniture. However, the OP and his family member were not happy with the petitioner. The OP used to return home in a drunken state everyday and abuse the petitioner with filthy languages. The OP and his family members did not allow the petitioner to visit her parent and asked her to keep minimum contact with her parents. The petitioner passed MBA from Bhavans Institute of Management Science, Salt Lake by taking educational loan and after completing her studies she got placement in a company and she was repaying her educational loan from the meager salary. The OP and his mother were not happy with petitioner continuing her job. The petitioner and the OP used to reside at Dhanbad due their jobs but frequently they used to visit the parents of the OP in Ranchi as such petitioner had to be admitted to the hospital for abdominal pain. The petitioner was unable to pursue her job and she left the job in the month of April, 2015. In the month of June, 2015 the petitioner went to Nasik with the OP where she was diagnosed endometriosis cysts. The OP and his family members refused to take responsibilities of the treatment of the petitioner. Thereafter, petitioner came back to Kolkata and got operated at ILS Hospital. All the expenses for the treatment was borne by the father of the petitioner. The OP used to taunted the petitioner for not giving birth to a child. However, in the year 2018, it was found that the OP was infertile. Subsequently, petitioner conceived but she had miscarriage. After that OP started distanced himself from the petitioner. On 10.9.19, the petitioner was dropped at her parental house at Naihati. After that despite of the several request the OP refused to take the petitioner back to her matrimonial house. OP and his family members asked the petitioner to take all her belongings from the house of the OP as he was shifting for his job at Allahabad as he did not want to take the petitioner along with him. On April, 2021 the petitioner and her parents went to house of the OP but they refuse to accept her and forced her to sign a petition for mutual divorce. Since 10.9.19 the petitioner has been passing her days in her parental house. The OP works in Tata group from which he earns Rs.50,000/- per month. On the other hand, the petitioner has no source of income. The OP has intentionally and willfully neglected to maintain the petitioner. Petitioner has claimed Rs.20,000/- per month as maintenance allowance for herself.

OP denied all the allegation made by the petitioner except marriage with the petitioner. It is submitted that the petitioner is a highly educated lady and she is well enough to maintain herself out of her own income. It is also submitted that after leaving her matrimonial home the petitioner and her mother contracted the OP for selling all the furniture of the house purchased by the OP and to send the amount to the petitioner in her bank account. OP request the petitioner to return back and to continue their marital life but the petitioner straightly refused and ordered the OP to sell all the furniture and send the money to the petitioner. Thereafter OP sold all the furniture and transferred a sum of Rs.31,500/- to the bank account of the petitioner. The petitioner is a hot tempered lady and she often quarreled with the OP. The petitioner wanted the Op to stay at her parental home and she did not want the Op to keep any contact with his parents. The petitioner has suppressed the fact that one Matrimonial Suit being No.23/2022 filed by the OP for divorce is

pending before the Principal Judge, Family Court at Ranchi. That the petitioner is a well educated lady and she used to work as HR at People Power (NR & CD Consultancy) and earned a sum of Rs.20,000/- per month. Further the father of the petitioner used to work in Indian Railways and at present he gets huge pension. The petitioner is the only child of her parents and they have enough financial status and support to maintain the petitioner. OP works in Tata Power as Group Head and he earns a sum of Rs. 44,055/- as net pay after all deductions and out of that income huge amount is required every month for the treatment of his mother. As such OP has prayed for the rejection of the interim petition.

Petitioner has mentioned in her affidavit of asset and liabilities dt.13.10.2022 that she has no source of income and she is totally dependent on her parents. On the other hand, the OP filed his affidavit of assets and liabilities where he stated that he earns Rs.58, 571 as gross income. Petitioner has filed the copy of her marriage certificate and the copy of her bank statements. OP has claimed that the petitioner is earning but he has not filed any documents in support of his claim.

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 allegations and counter allegations of the parties towards each other can not be decided at this stage without taking evidence.

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.

It is pertinent to mention the observation of Hon'ble Supreme Court of India, in **Rajesh 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 from 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. 15,000/- per month to be paid for the maintenance of the petitioner. **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.15,000/- per month to be paid for the maintenance of the petitioner** 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 of filing. The arrear amount is to be paid by the OP within a period of **24 months in equal installments.**

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

To 23.02.2024 for evidence

T & C by me

J.M 3rd Court, Barrackpore.

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