

M Case-159/2016
Order dated:31/07/19

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 of Rs. 10,000/- per month for herself.

The petitioner's case in a nut shell is that she was married to the op on 02/04/15 according to Muslim Sariat Law. After marriage she moved to her matrimonial house along with all her stridhan articles. Soon after marriage she was physically and mentally tortured for the demand of more dowry and also due to their dissatisfaction towards the quality and quantity of the stridhan articles. On 14/02/16 she was immensely tortured by the op and his family members for which she had to be admitted in a hospital for a day. Finally on 18/02/16 the op and his family members again inhumanely assaulted the petitioner with fists and blow which caused severe injuries in the eyes and legs and foot of the petitioner and was also driven out from her matrimonial house. Since then she is residing with her parents. Hence the case. Claiming herself as an un employed lady the petitioner states the op to be proprietor of 'Ali bedding', a shop with income of Rs.30,000/- per month, prays for Rs. 10,000/- as monthly maintenance.

The OP by filing show cause to the instant petition denies all material allegations and further states that sine marriage the petitioner has never shoulder any responsibilities of a wife or a daughter-in-law and has never participated in daily house hold course.

Contd. To P/2

P/2

She had pressurized the op to be come domesticated son-in-law and when denied, she left her matrimonial house on her own accord with her younger brother. Hence she was never subjected to any torture. Op further claims to be totally un-employed person being fully dependent upon the mercy of his parents and hence prays for rejection of the application.

At the time of hearing petitioner did not file any document and op filed a document issued councilor, Garulia Municipality stating that the op is an un-employed person till date and has no source of income till date.

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. Though it is evident from materials on record till date that the op is an un-employed person and the petitioner has not produced any document in contrary to the same however he being an able bodied person is duty bound to maintain his wife, at per his status, be whatever his financial condition may.

Contd. To P/3

P/3

In keeping with the standard of living of the parties I am of the view that an interim maintenance of Rs.1000/- per month for the petitioner wife to be paid by the op.

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. 1000/- 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.

Sd/-

Sukti Sarker

J.M 2nd Court, Barrackpore.

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