

M Case- 506/2018
New No. 533/18
Order dated: 16.3.20

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. 15,000/- per month.

The petitioner's case in a nut shell is that she was married to the op as per Hindu Rites and rituals and since marriage she was subjected to mental and physical torture in demand of money. The op did not shoulder any responsibility of the petitioner and she led her life with the help of her father. More so, he maintained illicit relationship with another lady. He even instigated the petitioner to commit suicide and filed a false divorce suit with false informations. Hence the case. Claiming the op to be an employee of eastern Railway. With income of Rs 56,987/- the petitioner prays for monthly interim maintenance of Rs 15,000/- per month.

The OP by filing show cause to the instant petition denies all material allegations and stated that the petitioner was never tortured either physically or mentally. On the contrary the op was tortured by the petitioner and her family members to the extent that he had to leave his own house and hence prays for rejection of the application.

At the time of hearing of the interim maintenance the Ld. Advocate for the op files salary statements of the op where in his income is found to be RS 38,844/- per month. 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. whether she left the

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matrimonial house on her own accord or not or whether she has been tortured physically or mentally is a matter of evidence which cannot be decided at this stage without taking any evidence. Though the petitioner has her income of own and is not sufficient for her own maintenance is a matter of evidence which cannot be decided 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.

In keeping with the standard of living of the parties I am of the view that an interim maintenance of Rs.3000/- per month to be paid to the wife for her minor son.

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 Rs3,000/- 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 **01.10.20** for evidence.

J.M 2nd Court, Barrackpore.

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