

M Case- 807/22
Shyamoli Basak vs. Tarak Nath basak
Order dated: 12.12.2023

Today is fixed for interim hearing.

Both parties file hajira.

Heard both sides in full.

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.20,000/- for herself.

The petitioner's case in a nut shell is that she was married to the OP on 30.01.2018 according to Hindu Rites and Customs. Soon after marriage she was subjected to physical and mental torture by the OP on various ground. Claiming herself to be an unemployed lady and the OP is an able bodied man and earning of Rs.45,000/- and hence prays for monthly interim maintenance of Rs.20,000/- for herself.

The OP by filing show cause denying all the materials except the marriage. OP has filed his affidavit of assets and stated at present gross income per month is Rs, 41,325 and his net pay is Rs. 37,125/-. He further mentioned that he paid Rs.8118 per month towards the Loan EMI and Rs.10,791 towards his mediclaim policy.

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 . 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 this connection it is pertinent to mention the observation of Hon'ble Supreme Court of India, in **Rajesh Vs. Neha reported in (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, *I am of the view that an interim maintenance of Rs.3000/- per month to be paid to the wife.* The order is effective from the date of filing.

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.3000/- per month to be paid to the wife with in 10 days of every succeeding month. This order is effective from the date of filing failing which the petitioner will be at liberty to put the order in execution. The arrear amount is to be paid by the OP within 12 months from the date of this order in equal installment.

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

To 04.06.2024 for evidence.

J.M 2nd Court, Barrackpore.

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