

M Case-920/19

Order dated: 18.4.22

Today is fixed for interim hearing.

Both parties files affidavit of assets and liabilities.

Now the record is taken up for hearing of the interim petition.

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 for herself of Rs.7500/- and Rs.5000/- for her minor child.

The petitioner's case in a nut shell is that she was married to the OP on 6.11.17 according to Hindu Rites and Customs. She moved to her matrimonial home with all her stridhan articles. Due to wedlock one female child was born on 25.10.18. Soon after marriage petitioner was tortured physically and mentally by the OP and his family members. After birth of female child torture was increased in extreme point. Claiming herself to be an unemployed lady and the OP is an able bodied man and earning of Rs.30,000/- and hence prays for monthly interim maintenance of Rs.7500/- for herself and Rs.5000/- for her minor daughter.

The OP by filing show cause OP denies all the allegations except the marriage and minor daughter. OP has filed affidavit of assets and liabilities. OP stated that petitioner's have sufficient income from her parlour where from she earns Rs.8000/- per month but did not submit any document in support of that. On the other hand, OP stated that he is a worker of a meat shop in a daily basis i.e. Rs.100/- per day usually ears Rs.3000/- 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. Though the OP has stated that the petitioner has income her own but in absence of any document to that effect, it becomes a matter of trial and hence cannot be decided at this stage.

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 keeping with the standard of living of the parties I am of the view that an interim maintenance of Rs.1,000/- per month to be paid to the wife and Rs.2000/- per month for her minor daughter. This order is effective from the date of filing as OP has taken. Arrear amount of Rs.87,000/- (November 2019 to March 2022) is to be paid by the OP payable within 01 year from the date of this order.

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.1,000/- per month to be paid to the wife and Rs.2000/- per month for her minor daughter. This order is effective from the date of filing. Arrear amount of Rs.87,000/- (November 2019 to March 2022) is to be paid by the OP within 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 **14.9.22** for evidence.

J.M 2nd Court, Barrackpore.

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