

Misc Case No. 23 of 2023
CIS Registration No. 23 of 2023

Order dated: 02.01.2025

Petitioner files attendance. The opposite party is without steps as usual. None found for him on repeated calls.

The record is taken up for *ex parte interim* hearing.

Already heard for the petitioner at required length and in full.

Perused the record. Considered.

Before proceeding to dispose of the instant petition it is found expedient to have a look into the contentions thrashed herein, supported by affidavit, by the lady, *sans* details, as under:

On 25.02.2020, the petitioner got married with the opposite party, as per Hindu rites and custom. Post marriage she went to live with her husband at the house of the later.

In due course the marriage was consummated and the parties hereto were blessed with a male child. Who is presently under the care and custody of the petitioner/ 1st party. However, the stay of the lady at her matrimonial home since marriage was not bed of roses, rather it was dotted with severe degree of physical and mental torture on her at the instance of the opposite party and his family members.

The tortures were mitigated as the family members of the opposite party demanded additional dowry, which could not be fulfilled by the father of the petitioner. As the petitioner failed to meet the demands it resulted in driving out of the lady from her matrimonial home with the boy child. She took shelter at her father's house and since then she is living at the mercy and by the strength of the alms that the paternal family of the petitioner provides as she has no personal income to maintain her much less the minor son. On the other hand the opposite party is said to earn Rs 30,000 every month from Big Bazar as a salary and additional 50,000/- from his business of second hand car. In order to save herself from the ordeal the petitioner prays for maintenance at the rate of Rs. 15,000/- *per mensem* for herself and Rs 5000 p.m. for the minor son from the opposite party.

As the opposite party did not turn up after his appearance so the matter was taken up for *ex parte* hearing. Given her unchallenged testimony this Court could convince itself that the lady and the minor soul have been subjected to utter negligence from the opposite party who was otherwise duty bound to maintain them, even after having sufficient capacity.

Thus following the attributes of the above discussion; I am of the fixed opinion that the petitioner is entitled to get the interim monetary relief as prayed for. Now the question that becomes germane for consideration what should be the quantum of such monetary relief. As held in plethora of cases; there can be no precise or settled formula to assess the quantum of interim maintenance. There is no strait jacket mathematical formula to precisely calculate any accurate amount to be given as interim maintenance. One thing however is clear and that is the O.P. being an able bodied and being the husband of the aggrieved person is bound both socially and legally to maintain his wife. Thus quantum of interim maintenance must be assessed keeping in mind this broad perspective. However I must hasten to articulate that the OP must not be made to beg, borrow or steal in order to maintain the aggrieved person. A balance has to be struck between the necessity and resource.

Keeping in mind the level of income that has been claimed by the petitioner, of the opposite party and the need of money for the lady and the child to live properly under the Sun with dignity this Court thinks that the opposite party who is otherwise

found to be capable of being fit to shoulder the responsibility should be directed to pay Rs. 2000/- *per mensem* as maintenance to the petitioner for her and another sum of Rs. 2000/- *per mensem* to the petitioner for the maintenance of the child, with effect from the the filing of this application.

Accordingly it is :

ORDERED

That the interim petition under section 125 of the Code of Criminal Procedure 1973 is hereby disposed of in *exparte* mode without any cost.

The Opposite Party herein is hereby directed to pay Rs. 2000/- as monthly maintenance to his wife being the petitioner herein, for her, and another sum of Rs. 2000/- to the petitioner herein for the monthly maintenance of the child of the petitioner and the opposite party, with effect from the date of filing application.

Liberty granted to the petitioner to put the Order or any part thereof into execution if the opposite party fails to comply the same.

Hand over a copy of this order to the petitioner free of cost forthwith.

To for 17.02.2025 for *exparte* evidence.

D/C by me

JM1
Raghunathpur, Purulia

Judicial Magistrate 1st Court
Raghunathpur, Purulia
WB01449