

Misc case 32/24

CIS no: 34/2024

CNR No:WBPU06-000390-2024

JO Code: WB01313

Order dated 15/10/24

Today is fixed for filing W/O by the O.P as last chance and hearing of interim petition.

Both parties are present by filing hazira.

The Ld. Advocate for the O.P has not filed any W/O.

Accordingly I am not inclined to provide any further opportunity to the O.P to file the W/O.

Now the case record is taken up for interim hearing.

Hd. both sides.

Perused. Considered.

It is the case of the petitioner that she got married with the O.P on 23/05/2022 according to Hindu Rites and Customs. After few months of marriage the O.P started torturing the petitioner physically and mentally. On 09/01/2024 the O.P assaulted her and snatched away her ornaments and wearing apparels. Since then the petitioner is residing at her paternal house in extreme hardship. The petitioner has no source of income and she is unable to maintain herself. The O.P is a toto driver and earns ₹25,000/- per month. In such facts and circumstances, she prayed for maintenance of ₹5,000/- per month for herself.

The Ld. Advocate for the O.P verbally admitted the marital relationship between the parties. He further submits that the O.P is always willing to take back the petitioner. As per his submission, the O.P earns ₹5,000/- per month only. Accordingly he prays for passing necessary order.

Both parties have filed affidavit of assets/liabilities as per mandate of the Hon'ble Apex Court in ***Rajnish vs Neha*** reported in ***AIR online 2020 SC 915***.

On perusal of the case record, this Court finds that the factum of marriage between the petitioner and the O.P is not denied. It is also admitted that the petitioner is staying separately from the O.P at present.

This being an application for interim maintenance, the only point which requires determination at this stage is that whether the petitioner has made out a prima facie case for getting maintenance for herself.

Thus, the Court has to satisfy itself regarding the existence of a prima facie case for making such an order. Where such a prima facie case has been made out, interim maintenance cannot be denied unless it is barred by any other provision.

Without going into the merits/demerits of the case put forward by respective parties it must be however stated that the petitioner and the O.P both appear to be married and ordinary rule of prudence indicates that a married woman would not leave her matrimonial home unless there are pressurising circumstances for her to do so and it is the duty of the husband to provide maintenance to her. If he does not do so it can be said that he has refused or neglected to maintain his wife.

The O.P is under a social, moral and legal obligation to look after his legally married wife and to maintain her and he is prima facie not doing so. The O.P has not stated anything about the income of the petitioner. Thus it can be presumed that the petitioner has been able to make out a prima facie case to get interim maintenance for herself from her husband.

So, this Court finds that the petitioner is eligible to get interim maintenance from the O.P, but the question is what should be the quantum thereof? It is settled law that quantum of maintenance awarded should be such that it enables the intended recipient to live a decent but not necessarily luxurious life and at the same time isn't unduly penurious to the O.P and also this is a prayer for interim maintenance that is being dealt with here where the actual income of the parties is yet to be ascertained.

Considering the facts and circumstances of the case this Court is of the opinion that it is a fit case to allow interim maintenance to the petitioner and considering the current market value, this Court will allow interim maintenance to the tune of ₹3,000/- per month for the petitioner.

Hence it is

O R D E R E D

That the petition for interim maintenance is considered and allowed on contest.

The O.P is directed to pay ₹3,000/- per month to the petitioner as interim maintenance from the date of filing of this case.

The O.P is further directed to pay the said amount of ₹3,000/- per month to the petitioner as interim maintenance within 1st week of each succeeding English calendar month.

Let a copy of this order be given to the petitioner free of cost if applied for.

To 17/12/25 for evidence and filing show cause by the O.P.

D/c by me:

Sd/-
ACJM-2nd Court
Raghunathpur, Purulia

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Raghunathpur, Purulia