

M 157/22
CIS 158/22

Order dated 12.06.23.

Today is fixed for interim order.

Both the petitioner wife and the OP husband is present along with their Ld. Advocates.

Ld. Advocate for the petitioner prayed for grant of an interim maintenance allowance for the petitioner and minor child, on the grounds stated therein. He submitted that, the parties got married on 30.05.11 as per Hindu rites and customs. Thereafter one girl child was born to the parties, namely Smrity Mondal, aged about 8 years. In course of her conjugal life the OP tortured upon the petitioner in demand of more money as dowry. When the petitioner expressed her incapacity to pay the same the OP had driven her out of his house on 28.01.22 along with her minor child after snatching away all her jeweleries and valuables. Since then she had been residing at her paternal house. Ld. Advocate further submitted that the OP ride in a Toto and deal in money lending business and earns of Rs. 35,000/- to 40,000/- per month.

Ld. Advocate for the OP submitted that, the OP is an unemployed person . As such he is not in a position to pay any maintenance.

Perused all materials in case record. Heard both sides.

Considering the very objective of the provisions of interim maintenance u/s 125 Cr.P.C, which is meant for the bare minimum subsistence of the applicant, if she is incapable of maintaining herself, this Court is inclined to grant an interim allowance towards the children, for her upkeepment, pending trial of this case. Let it be known that since there is a allegation of desertion against the wife petitioner, this Court is not inclined to grant any maintenance towards her without adducing cogent evidence in this regard.

It is pertinent to mention that, since it is preliminary stage and no evidence of parties has been recorded so far, so as to draw any certainty as to the quantum of income actually earned by the OP, in keeping with the allegations of the petitioner (as to the quantum of income) or the actual negligence that may have been perpetrated by his actions.

In view of the above discussions, this court opines that an amount of interim maintenance to the tune of Rs. 2500/- per month for the petitioner and Rs. 1000/- per month for the minor child will suffice at this stage.

Hence, it is

Ordered

that the prayer for interim maintenance of the petitioner is considered and allowed. The OP husband is hereby directed to pay Rs. 2500/- per month for the petitioner and Rs. 1000/- per month for the minor child totaling Rs. 3500/- per month as interim maintenance allowance, during the pendency of the instant case or until any further/other order passed to the contrary by this court.

BC-II is hereby directed to provide a copy of this order to the petitioner as and when prayed for.

To 08.08.23 for evidence.

D/C by me

Judicial Magistrate 3rd Court,
Diamond Harbour