

Misc Case- 248 of 2024

Order dated: 20.06.2025

Today is fixed for hearing in respect of an application for interim maintenance filed by the petitioner/wife against the OP/husband and filing of affidavit.

Both the petitioner/wife and the OP/husband are present by filing haziras. OP also files affidavit in respect of assets and liabilities.

Both the Ld. Counsels for the petitioner and the OP made their submission at the hearing.

The case record is taken up for passing order.

OP has filed written objection against the instant petition under consideration denying all the material allegations leveled against him.

The case of the petitioner/wife, in a nutshell, is that her marriage with the OP/husband was solemnized 16 years ago as per Muslim rites and customs fixing Rs.1001/- as Din-Mehr. At the time of her marriage her father had given dowry as per demand of the OP. After marriage petitioner went to her matrimonial home and resided with the OP as husband and wife. Out of their wedlock they have one son namely Sk Rajdeep aged 15 years old. After the birth of their son the OP/husband and his family members were assaulted physically and mentally and did not provide proper food. The OP/husband assaulted her in different manner over the demand of cash money. Lastly on 08.06.2024 around 3 to 3.30 p.m the petitioner was again torture by the OP and his family members for demand of 2 lakh and on failure to fulfill such demand she was driven out from her matrimonial home after detaining her son and her all belongings. Finding no other alternative she took shelter at her paternal home and even a specific case has been started against the OP. Since the day of separation, OP as neither taken information about her. Petitioner is an helpless lady having no independent source of income. On the other hand OP is a fit and able bodied person having dwelling house, landed properties etc. OP is owns an Auto vehicle and drives the same. He earns monthly Rs.20,000/- from all sources. Accordingly, petitioner claims monthly interim maintenance for herself to the tune of Rs.6,000/-.

In the written objection, the OP denied all the material allegations leveled against him. OP admitted that petitioner is his wife and the minor child their son. He alleged that the petitioner frequently used to return to her paternal home and remain busy in her personal mobile phone. She had illicit relation with persons

and the same is admitted by her in a document executed. OP further alleged that several times counseling and meeting were held to resolve the dispute but in vain. The petitioner voluntarily left the matrimonial home and has sufficient means to survive. OP is a day labour and has to maintain his minor son and old parents. It is not possible for him to pay separate maintenance to the petitioner.

Both the application of the petitioner as well as the written objection of the OP are supported by verification. Further more, both the parties have filed their respective affidavits of assets and liabilities in compliance with the observation of the Hon'ble Apex Court in the case of Rajnesh vs Neha. The veracity of the allegations and counter-allegations of each parties can only be ascertained at the stage of trial on the basis of evidence to be put forward by them.

The marriage between the petitioner/wife and the OP/husband has not been denied and the paternity of the the minor son of petitioner is also not challenged by the OP/husband. Petitioner did not produce any document in support of her claim regarding present monthly income of the OP/husband. On the other hand, the OP has also not produce any document. But he is found to be fit and able bodied person.

Pending adjudication of the present case on the basis of further evidence to be adduced by both the parties during trial, the petitioner/wife being the legally married wife is entitled to claim interim maintenance from the OP/husband for herself and as such, considering that the OP has to maintain his minor son and his old parent, still I am inclined to allow the application of the petitioner/wife claiming interim maintenance for herself.

Having regard to the facts and circumstances of the case, the purpose of the legislation, the present requirements of the petitioner as could be obtained from the pleadings and other materials, I am of the view that an interim maintenance of Rs. 1500/- per month for the petitioner/wife until further order would be reasonable.

Hence, it is

ORDERED

that the application for the interim maintenance filed by the petitioner/wife against the OP is allowed on contest but without cost. The petitioner is entitled to get an interim maintenance allowance of Rs. 1,500/- per month for herself from the filing of this case i.e 08.07.2024.

The OP/husband is directed to pay the said maintenance allowance to the petitioner by the 7th of each succeeding month as per English calendar.

In case of default, the petitioners shall be at liberty to get the order executed as per law.

Fix **29.07.2025** for evidence.

A copy of this order is to be given to the petitioners free of cost.

A.C.J.M.
Diamond Harbour
J.O.Code : WB01221