

**M 286/21**  
**Cis 182/21**

**Order dated 02.08.23.**

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 20.02.18 as per Hindu rites and customs. Thereafter one girl child was born to the parties, aged about 3.5 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 along with her minor daughter 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 deals in Homeopathy Medicine business and earns of Rs. 2,00,000/- per month. He also have landed and residential property. As such the petitioner have claimed Rs. 25,000/- for herself and Rs. 5000/- for her child.

Ld. Advocate for the OP submitted that, petitioner is self sufficient and independent enough to maintain herself. As such there is no urgency to obtain interim maintenance. Since she has voluntarily left the OP and residing at her paternal house, she is not entitle to get any interim maintenance at this stage. He has further submitted that the OP earns Rs. 15,000/- to 20,000/- per month. 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. 4000/- per month for the petitioner and Rs. 3000/- 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. 4000/- per month for the petitioner and Rs. 3000/- per month for the minor child totaling Rs. 7000/- 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 10.10.23 for evidence.

D/C by me

Judicial Magistrate 3<sup>rd</sup> Court,  
Diamond Harbour