

## **Misc Case- 505 of 2024**

### **Order dated: 12.06.2025**

Today is fixed for hearing in respect of an application for interim maintenance filed by the petitioner/wife against the OP/husband, filing of W/O and cost of Rs.500/-.

Both the petitioner/wife and the OP/husband are present by filing haziras. OP files receipt showing payment of cost made. OP also files written objection. 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 file written objection against the petition under consideration and denied 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 on 29.04.2013 as per Muslim rites and customs fixing Rs.2001/- as Din-meher. At the time of their marriage her father presented gold ornaments, utensils and cash of Rs.10,000/-. After marriage petitioner went to her matrimonial home and resided with the OP as husband and wife. Out of the wedlock they have three children namely Afrina Molla, Suraj Ali Molla and Siraj Molla. While residing, OP and his family member used to complaint her that the dowry presented was not to their satisfaction and over such dissatisfaction, they inflicted torture upon her both physically and mentally. Still she resided with the hope of better future. The petitioner came to know that OP has illicit relation with one Momina and has subsequently married her and has been residing with her in a rented house. When she raised protest to it she was physically tortured by the OP and was asked to bring Rs.50,000/-. Lastly on 07.10.2024 as she was unable to fulfill the demand, so she was severely assaulted and driven out of the matrimonial home with her three sons. Finding no other alternative she took shelter at her paternal home. Since the day of separation, OP as neither taken information about her or her minor children. 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, pond and bastu. He is skilled mason. He also supplies labour on contract. He earns monthly Rs.50,000/- from all sources. Accordingly, petitioner claims monthly interim maintenance for herself to the tune of Rs.7,000/- and for her three minor children to the tune of Rs.3,000/- each.

In the written objection, the OP denied all the material allegations leveled against him. OP admitted his marriage with the petitioner as well as the paternity of the three children. OP contends that petitioner intended to live at her paternal home and for that she pressurized OP to live as domesticated son in law. When OP denied, he was threatened of been falsely impliated in criminal case. OP is a day labour earning Rs5000/- to Rs.6000/- per month. Petitioner is an earning lady does emboidory work and earns Rs.4000/- to 5000/- per month.

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 children 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 her minor children and as such, I am inclined to allow the application of the petitioner/wife claiming interim maintenance for herself and her minor children.

Having regard to the facts and circumstances of the case, the purpose of the legislation, the present requirements of the petitioners as could be obtained from the pleadings and other materials, I am of the view that an interim maintenance of Rs. 2000/- per month for the petitioner/wife and Rs. 1,000/- per month for her three minor children named above 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. 2,000/- per month for herself and Rs. 1,000/- per month for her three minor children namely Afrina Molla, Suraj Ali Molla and Siraj Molla from the date of filing of this case i.e 30.11.2024.

The OP/husband is directed to pay the said maintenance allowance to the petitioner by the 7<sup>th</sup> 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 **27.08.2025** 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