

M Case No. 257/2020  
Present:- N. Bandyopadhyay

Date:- 27.06.2024.

Today is fixed for hearing of interim maintenance petition.

Now the record is taken up for hearing.

Heard both sides in full.

Now the record is taken up for passing order.

The case of the petitioner in short is that petitioners are the aged parents of the OP. Petitioners all along have taken care of the OP but OP does not take care of his parents and does not provide them any maintenance. OP used to pressurized the petitioners to transfer the residential house in his name. OP used to assault the petitioners and does not provide them with food. On 15.11.2020 when the petitioners asked for maintenance from OP, they were beaten by the OP and driven out from there. OP did not take any information of his parents and did not provide for any maintenance. OP has landed property, residential house and he works as a manager in a pvt. Company and he earns Rs. 40,000/- per month.

In such circumstances the petitioner prays for Rs.5,000/- each for them her total Rs.10,000/- per month.

On the other hand OP filed his written objection denying the material allegations of the petition contending, inter-alia , that he is a poor person. OP used to look after the petitioners. But the petitioners have driven him out from their house at the instigation of elder son. Petitioner no. 1 is a mason and he earns Rs. 10,000/- per month. Petitioner no. 2 also engages in handcraft and she earns Rs. 3000/- per month. On the other hand, OP is a day labour and he earns Rs. 4000/- per month. Petitioners reside with their elder son and they do not want to reside with the OP voluntarily. This case has been filed with false allegations only to harass OP.

Findings of the Court

It is worth mentioning that while disposing an application for interim maintenance allowance u/s-125 Cr.P.C the Court has hardly any scope to go through the merit of this case, but to pass necessary order based on the materials apparent on record. At this stage no document has been filed by the petitioner to show income of OP.

Similarly nothing is on record to show that the petitioners have any permanent source of income to maintain themselves nor is there any material that the O.P. has been providing any sort of maintenance to the petitioners. It is needless to say that the son

having sufficient means is under a statutory obligation to maintain his parents who is in distress . In this case , the OP is an able-bodied person and does not suffer from any deformities. Op himself admits that he is a day labour and earns Rs. 4000/- per day. Thus at least he has some income though the exact amount can not be determined at this nascent stage.

In the instant case while appreciating the materials apparent on record, I have reason to believe that a prima facie case has been made out in favour of the petitioners for their entitlement as to interim maintenance allowance for themselves.

Now having regard to the submission of the Ld. Advocates for both sides coupled with the materials available on the record as well as considering the need and urgency of the petitioners, this court is of the view that if a sum of Rs. 1000/- per month each to the petitioners be allowed, that would not be prejudicial to either of the parties at this stage.

Accordingly it is,

ORDERED

that the present application for interim maintenance allowance is hereby allowed on contest in part in favour of the Petitioners but considering the circumstances without any cost. **Opposite Party is hereby directed to make payment of a sum of Rs. 1000/- (one thousand only) per month each to the petitioners in total Rs. 2000/- per month towards the interim maintenance allowance from this date till disposal of this case.** Such amount is adjustable with the maintenance, if any, paid by the O.P. to the petitioner under any other statute. The payment must be made within 10<sup>th</sup> day of each succeeding English Calendar month failing which, the petitioner is at liberty to realize the same through court.

Let a copy of this order be supplied to the petitioner free of cost.

**Fix 05-09-24 for evidence.**

Typed and printed by me

Judicial Magistrate  
1<sup>st</sup> Court, Diamond Harbour  
JO Code-WB013222

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