

**M. 197/2020 (Reg. No. 197/2020)**

**Order dt. 15-05-2023.**

Both sides file respective hazira. Today is fixed for order in respect of interim maintenance. The record is taken up for passing order.

The petitioner has filed the instant case u/s. 125 of Cr.P.C and by the petition for interim maintenance she has prayed for interim maintenance from the O.P. to the tune of Rs. 10000/- a month and also cost of litigation to the tune of Rs. 500/- for herself stating inter alia that the petitioner was married to the O.P. according to Hindu rites and ceremonies on 18-06-2018 and after the marriage both of them resided together as husband and wife at the house of the O.P. After initial spell of happiness the petitioner was subjected to physical and mental torture by the O.P. and his relatives on demand of more dowry. Degree of torture upon the petitioner intensified when she protested against bad character of the O.P. Ultimately on 03-10-2020 the petitioner was driven out of her matrimonial home by the O.P. and his relatives. Ever since driving her out the O.P. has neither looked after the petitioner nor provided any maintenance for her. The petitioner has no independent source of income and as such she is passing her days in much hardship at her paternal home. The O.P. is financially stable. He has own dwelling house and landed property. He works as O.T. in charge at Tata Medical Centre in Kolkata and he earns Rs. 30000/- in total.

The O.P. has filed written objection against the application u/s. 125 of Cr.P.C. and his objection against the interim maintenance is also based upon the same. The O.P. has denied all the material contentions of the petitioner save and except that of marriage between the parties. The specific objection of the O.P. is that the petitioner used to misbehave with the O.P. after their marriage. She is an adamant woman of bad character. After one month the petitioner, who is a nurse, went to her place of work. She used to abuse the O.P. whenever he told her to come to the O.P. for conjugal life. She used to give away all her earning to her mother. On raising objection by the O.P., the petitioner used to revile him. The petitioner has an illicit relationship. The O.P. is day labour by profession and he earns Rs. 3000/- a month only. He has to maintain his aged parents. The O.P. is willing to live together with the petitioner.

Both sides have filed their respective affidavit of assets and liabilities in support of their pleadings.

At this stage the real dispute between the parties cannot be decided. The disputed matters involved in the case relevant to the present proceeding are to be decided during trial upon evidence adduced by the parties. Marriage between the parties is admitted in this case. The petitioner has filed the instant case praying for maintenance for herself from the O.P. The application for interim maintenance is supported by affidavit. Nowhere in his written objection the O.P. has claimed that he is not an able bodied person. Moreover, from the very contents of the same it appears that the O.P. is an able bodied person. An able bodied person has liability to earn sufficient means to maintain his wife. The underlying principles of section 125 of Cr.P.C. mandate for prevention of vagrancy and the same is a beneficial legislation. Though the O.P. has contended that the petitioner has independent source of income, no document in support of such contention has been produced on his behalf. The petitioner contended that the O.P. works as O.T. in charge at a renowned medical centre in Kolkata. Though the O.P. has claimed himself to be a day labour, from the very contentions of his the same is not believable. The O.P. has contended that the petitioner is a nurse. Though the O.P. has not been able to file any document in support of such contention, it can be presumed that respective status of the parties was the same at the time of marriage between the parties. Considering all aspects, at this stage I do not find any

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**contd.**

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sufficient reason to refuse the prayer for interim maintenance allowance. Now considering the status of the parties as transpired from the materials on record and the cost of living now a days, I am of the view that it would be just and proper to direct the O.P. to pay monthly allowance of Rs. 6000/- as interim maintenance and also cost of Rs. 500/- for the present proceeding to the petitioner. I am also of considered view that the order for interim maintenance should be effective from 21-10-2020 i.e. the date of filing of the present application. In the result the application for interim maintenance succeeds in part.

Hence, the prayer for interim maintenance is allowed in part on contest.

The O.P. is hereby directed to pay Rs. 6000/- a month as interim maintenance allowance with effect from 21-10-2020 within 10<sup>th</sup> day of each successive English calendar months and Rs. 500/- as one time cost to the petitioner. The O.P is also directed to pay the entire amount of interim maintenance allowance and the amount of cost within fifteen days from the date of this order, failing which the petitioner will be at liberty to realize the entire amount of arrear along with the current amount of the interim maintenance allowance and also the amount of cost by putting this order into execution.

To 15-09-2023 for evidence of P.Ws.

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

Typed and printed by me.

Sd/-

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A.C.J.M., Kakdwip.

Sd/-

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A.C.J.M., Kakdwip.