

M. 251/2020 (Reg. No. 251/2020)

Order dt. 13-04-2023.

Petitioner files hazira. O.P. files petition supported by fresh vakalatnama praying for time. 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. 5000/- a month for herself and Rs. 5000/- a month for her minor son stating inter alia that the petitioner was married to the O.P. according to Hindu rites and ceremonies about 08 years ago and after the marriage both of them resided and cohabited together as husband and wife at the house of the O.P. After initial spell of happiness for two years the O.P. started inflicting physical and mental torture upon the petitioner. One son namely, Sandip Das was born in their wedlock. At the time of filing of the application her son has been 07 years old. The petitioner used to tolerate the torture inflicted upon her hoping for better future. But ultimately on 10-09-2020 the O.P. and his relatives created pressure upon the petitioner to bring cash of Rs. 100000/- from her paternal home and in the event of her disclosing inability of her father to fulfill such demand, they drove her along with her minor son out of her matrimonial home. The petitioner along with her minor son took shelter at her paternal home. A bride torture case being Kakdwip P.S. Case No. 165/2020 was initiated against the O.P. and his relatives at the instance of the petitioner. Ever since then the O.P. has neither looked after the petitioner and her minor son nor provided any maintenance for them. The petitioner has no independent source of income. The O.P. is financially stable. He has own dwelling house and landed property. He deals in coconuts. He also works a drawing teacher and an accountant in betel market. He earns Rs. 20000/- to 25000/- a month.

The O.P. has filed written objection and his objection against the application for interim maintenance is also based upon the same. The O.P. has denied all the material contentions of the petitioner save and except those of marriage between the parties and paternity of the minor child. The specific objection of the O.P. is that the petitioner used to lead wanton life. She used to misbehave with the O.P. and his relatives. She was in the habit of roaming around here and there on the pretext of visiting her paternal home. She also started to stay at her paternal home. She disclosed her reluctance to live with the O.P. for his poor financial condition. The O.P. is unemployed. He imparts private tuition to maintain livelihood. He earns about Rs. 4000/- only a month and he has to maintain his aged parents. He has no movable or immovable property of his own. He has not the capability to provide any maintenance separately for the petitioner and her minor son. He is willing to live together with the petitioner and their son.

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. 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 and minor child. The underlying principle of section 125 of Cr.P.C. mandates for prevention of vagrancy and the same is a beneficial legislation. Considering all aspects, at this stage I do not find any 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. 4500/- in total as interim maintenance to

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the petitioner for her and her minor son. Such monthly allowance would be inclusive of Rs. 3000/- for the petitioner and Rs. 1500/- for her minor son. I am also of considered view that the order for interim maintenance should be effective from 18-12-2020 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. 4500/- a month in total to the petitioner as interim maintenance allowance for the petitioner and her minor son with effect from 18-12-2020 within 10th day of each successive English calendar months. Such monthly allowance is inclusive of Rs. 3000/- for the petitioner and Rs. 1500/- for her minor son. The O.P. is also directed to pay the entire amount of interim maintenance allowance 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 by putting this order into execution.

To 11-08-2023 for evidence of P.Ws.

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

Typed and printed by me.

Sd/-

A.C.J.M., Kakdwip.

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