

MR 100 of 2018

Order dated 20/08/2019

Today has been fixed for hearing the petition of interim maintenance.

Both the parties are present before the Court.

The petition for interim maintenance is heard. The record is taken up for passing order.

The case for the petitioner is that she is the legally wedded wife of the OP and that she was tortured after her marriage for more dowry and was tried to be killed. On 14/07/2018, when the OP tried to kill the petitioner, the neighbouring people came to her rescue. The OP then drove the petitioner from her matrimonial house.

The OP admitted to have been married to the petitioner but alleged a different story that the petitioner had voluntarily left the society of her husband. The OP also stated that he had filed a suit for restitution of conjugal rights and after knowing about it, the petitioner filed this case. The OP further stated that he was a day laborer and earned very minimal amount of money and also stated that as her leaving the matrimonial home was voluntary, she was not entitled to any maintenance.

Perused the case record. Considered the submission of both the parties. The petitioner has in her prayer for interim maintenance only stated about the violence and torture that had taken place on her. Neither has she stated that she does not do any work nor has stated about the work done by the OP or about his earnings but had verbally argued that the OP has huge land and also earns through other work. The petitioner has subsequently prayed for Rs. 10, 000/- as interim maintenance. On the other hand, the OP continuously re-iterated the fact that he is a day-labourer and also has to maintain his family. However, the OP did not clarify about his earnings.

It is not denied by the OP of the petitioner no. 1 being his wife and petitioner no. 2 and 3 being his children. It is the duty as well as the responsibility of the husband to maintain his wife and father to maintain his child. The petitioners are presently not residing at the OP's house. Both the parties have filed affidavits in respect of their stories, though the petitioner has not clarified in her interim prayer about the earnings, but at this stage, there is nothing material to also rely upon as the earning of the OP has not been established by any of the parties. Presently, it has to be seen that the petitioner should not be left to suffer the pangs of hunger. At the same time, it should be also taken care of that the opposite party may not be penalised in the name of providing

maintenance to the petitioner. A balanced approach has to be adopted. The petitioner no. 1 is no doubt the wife of the opposite party and the petitioner no. 2 and 3 his children. Therefore, in view of the materials on records, it would be in the fitness of the things to hold that the petitioner no. 1 should get at least Rs. 1000 (Rupees One thousand only) per mensem and petitioner no. 2 and 3 should get at least Rs. 500/- (Rupees Five hundred only) each till the disposal of the case so that she and her children do not become the scrape-heap of the society. Law has enjoined upon the husband a duty to look after the wife. Every religion sanctions this. Morality demands it.

Accordingly, the respondent/husband namely Jahedul Rahaman is directed to make payment of Rs.2000/- (Rupees two thousand only) per mensem in toto to the petitioners on the 15th day of every month since the date of filing of this instant petition till the disposal of this instant case.

In case of infraction of this order by the opposite party, the petitioner would be at liberty to execute the same through the process of the court. The interim maintenance petition is hereby disposed of on contest.

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

The OP also files one prayer for sending the case record for mediation. The same is kept with the record.

Fix 03/09/2019 for hearing.

Typed by me:

Sd/-

Judicial Magistrate

Islampur, U/D.

Sd/-

Judicial Magistrate,

Islampur, U/D.