

In the matter of : Susanta Paul

... Petitioner

Nobody appears on behalf of either of the parties. No accommodation is sought for.

This case pertains to the year 2021. The record is taken up for passing an order on merit to avoid further delay.

The brief fact of the instant case is relevant for disposal of this case.

The opposite party being the wife of the petitioner filed an application under Section 12 of the Protection of Women from Domestic Violence Act 2005 before the learned Court of Chief Judicial Magistrate, Paschim Medinipur and the same was registered as Misc. Case No. 140 of 2019. Subsequently the said matter was transferred to the Judicial Magistrate, 5th Court at Paschim Medinipur for its disposal. The wife/opposite party No. 2 also filed an application under Section 23 of the Protection of Women from Domestic Violence Act praying for interim order of maintenance. The learned Magistrate has allowed a sum of Rs.3500/- per month as interim maintenance. The contention of the petitioner is that the said order was passed in ex-parte manner. Accordingly, the said order is required to be set aside.

It is the contention of the opposite party No. 2/wife that their marriage was solemnised on 19.02.2018 as per Hindu rites and customs. As per the demand of the petitioner herein, the father of the wife/opposite party no. 2 further gave a sum of Rs.50,000/-, 40 grams gold ornaments and other household articles. After marriage they started living together as husband and wife. After

few weeks of the said marriage the husband started torture the wife/opposite party No. 2 both physically and mentally without any valid reason. He further used to abuses in filthy languages by stating that she belongs to a lower caste and further pressurised to bring further dowry of Rs.50,000/- from her parental house and when she failed to satisfy their demand she was brutally assaulted by the husband and in-laws. Finally, she was driven out from her matrimonial home on 14.02.2019 in single cloth and now residing in her father's house. She also lodged a complaint against the husband and in-laws and the same was registered as Sabang Police Station case No. 105/19 dated 09.03.2019 under Section 498A/323/307/506/34 of IPC and Section 3 and 4 of the DP Act.

The husband neglected to maintain her though she resides separately and she has no income to maintain herself. The husband is able bodied person and working in private corporate company at Calcutta and earned Rs.30,000/- per month though no documentary evidence produced by the wife/opposite party No. 2. Despite of the fact the husband is under bounden duty to maintain her as she has no her own income to maintain herself.

Considering the above facts and there is no dispute that she is not a married wife and living separately. There are also one criminal case is pending between the parties.

Under such circumstances, the learned Magistrate has rightly allowed a sum of Rs.3500/- for her interim maintenance. It appears correct and legal and without any error in jurisdiction and law. As such the instant application has devoid of merit.

Accordingly CRR 1097 of 2021 is thus dismissed without any order as to costs.

Interim order, if any, be vacated.

Let a copy of this order be communicated to the learned Court below for information.

Urgent Photostat certified copy of this order, if applied for, be supplied to the parties after observing all legal formalities.

(Ajay Kumar Gupta, J.)