

Mr 53/18
Marjina Parbin
Vs
Abdul Jalil

IN THE COURT OF JUDICIAL MAGISTRATE 1st CLASS, NALBARI

Case No. 53m /2018

MARJINA PARBIN

V

ABDUL JALIL

Present: RUBINA YASMIN, A. J. S.
JMFC, Nalbari

Advocates appeared:

Mr. Abdul Mazid...for the petitioner.

Nonefor the respondent

Evidence recorded on – 17-07-18

Date of argument – 18-09-18

Date of judgment – 27-09-2018

JUDGMENT and ORDER

The instant proceeding has been drawn out on the petition filed by Mrs. Marjina Parbin (hereinafter called as 1st party) u/s 125 of CrPC against her husband Abdul Jalil (hereinafter called as 2nd party) for monthly maintenance of Rs. 4000/- for her.

The case of the 1st party in brief is that, the 1st party was married to the 2nd party one year prior to the incident. She stated that subsequent to her marriage 2nd party and his mother had inflicted physical torture upon her due to non-fulfillment of dowry demand. It is also alleged that on the month of January she was driven out of her matrimonial home. When she refused to go 2nd party took her to the ferry and left her for her parental home. till then neither 2nd party has bothered to take her information nor has he paid any maintenance to her. The 1st party has no any income of her own. The 2nd party

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earns near about Rs. 40,000/- from farming and cultivations of about 40 bigha of land. Hence she prayed for maintenance at the rate of Rs. 4000/- per month for her.

The 2nd party has not appeared before the court after having knowledge about the case. Hence the case proceeds ex parte against the 2nd Party.

In order to establish the case, the 1st party adduced only her evidence. I have heard the 1st party and perused the materials available on record.

POINTS FOR DETERMINATION:

1. Whether the 1st party is living separately from the 2nd party without any sufficient cause?
2. Whether the 2nd party neglects or refuses to maintain the 1st party who is unable to maintain herself?
3. Whether the 2nd party is entitled to maintenance? If so what is the quantum of Maintenance?

DISCUSSION, DECISION & REASONS THEREOF:

Point No. I:

The 1st party has stated in her evidence as PW1 that she got married to the 2nd party near about 1year ago. As the 2nd party has not contested the case after having knowledge of the same it is presumed that the marriage between the parties is undisputed one. So far, the allegation of the 1st party for living separately from her husband is concerned it is alleged by the 1st party that after her marriage 2nd party has inflicted physical torture upon her due to non-fulfillment of dowry demand and was driven out of her matrimonial home. Furthermore, when her parents came to reconcile the matter 2nd party did not pay any heed towards the matter and straightaway refused to take her back if their demand is not fulfilled. Thus it is a sufficient cause for a wife to live separately from her husband.

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Point No. II and III are clubbed together

The petitioner/1st party in her evidence stated that she has no any source of income and that the 2nd party earns Rs.40,000/ per month from farming and cultivations. It is also stated that the 2nd party has not taken any information of her since she was driven out of his house. The object of section 125 Crpc is to prevent starvation of the person in whose favor the order is passed. In this instant case, the 1st party has stated that the 2nd party assaulted her and driven her out of her matrimonial home. Hence it may be presumed that there must have been situation where it became difficult for the 1st party to live with the 2nd party in his house with dignity and self- respect. There is nothing to disbelieve the evidence of PW1. Moreover, the 2nd party after having knowledge did not contest the case. Hence both the issues are decided in affirmative

In view of the above discussions and decisions, it is held that the 1st party is entitled to get maintenance from the 2nd party.

ORDER

In the result, maintenance allowance is granted to the 1st party @ Rs. 2000/- (Rupees two thousand) per month from the 2nd party w.e.f. date of passing of this order i.e. 27.09.18 until the 1st party remarries or as per provision of law.

A free copy of this judgment be given to the parties forthwith.

This Misc case is disposed of uncontested.

Given under my hand and seal of this court on this 27th day of September, 2018

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Appendix

List of witness for the 1st party

1. PW1- Marjina Parbin

List of witness for the 2nd party

Nil

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