

**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT  
JODHPUR**

S.B. Criminal Misc(Pet.) No. 986/2022

-----Petitioner

Versus

-----Respondent

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For Petitioner(s) : Mr. Mohit Singhvi  
For Respondent(s) : Mr. Mahipal Bishnoi, PP

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**JUSTICE DINESH MEHTA**

**Order**

**11/03/2022**

1. By way of the present petition under section 482 of the Code of Criminal Procedure, 1973 (for short "Cr.P.C."), petitioner has challenged the order dated 06.01.2022, whereby the learned Gram Nyayalay, Aspur, District Dungarpur (hereinafter referred to as "the trial Court") has partly allowed the application for interim maintenance filed by the respondent (wife) and directed the petitioner to pay a sum of Rs.5,000/- per month as interim maintenance.

2. Mr. Singhvi, learned counsel for the petitioner argued that the petitioner and the respondent who got married on 17.02.1976, have been living separately since 1986 and therefore, the present

petition under section 125 of Cr.P.C. that has been filed in the year 2021, is clearly an abuse of the process of law.

3. During the course of submission, learned counsel for the petitioner argued that the Court below has treated petitioner's income to be Rs.1,00,000/- whereas his return of income tax shows that his income is approximately Rs.40,000/- per month.

4. Heard and perused the record.

5. In the opinion of this Court, an order under section 125 of Cr.P.C. is in the nature of interim maintenance and husband, who admittedly earns Rs.40,000/- per month cannot be absolved of his obligation to pay interim maintenance, merely because the respondent - wife has chosen to file the application after 36 years of marriage.

6. The fact as to whether the petitioner and the wife are living separately since 1986 so also the circumstances in which respondent has filed the petition for maintenance are yet to be finally determined by the Court concerned.

7. This Court does not find any reason to interfere in the present petition, particularly when the petitioner has failed to point out any jurisdictional error or apparent error on the face of record and when a meagre sum of Rs.5,000/- has been ordered to be paid.

8. No interference is warranted in the petition, for which, it is hereby dismissed.

9. Stay petition also stands dismissed accordingly.

**(DINESH MEHTA),J**