

**IN THE COURT OF JUDICIAL MAGISTRATE, 1ST COURT,
RAMPURHAT, BIRBHUM**

Misc. Case No. 331 of 2024
CNR: WBBB060019712024

Present: Sk Alfaz Firdous (J.O. Code: WB 01450)

ORDER DATED 21.01.2025

1. Today's date is fixed for passing Order in respect of the application for interim maintenance filed by the petitioner.
2. The record is taken up for passing Order.

Petitioner's case

3. It is alleged that the petitioner got married to the opposite party on 16.11.2015 according to Muslim rites and customs. After marriage, the petitioner started residing with the opposite party at her matrimonial house. The opposite party started causing physical and mental torture upon the petitioner as she failed to conceive a child. Further, the opposite party demanded dowry of Rs. 1,50,000/- from the petitioner. The torture upon the petitioner gradually increased and finally on 31.05.2024 she was driven away from the matrimonial house. Finding no other option, the petitioner took refuge at her father's house. Since then, the opposite party has been refusing and neglecting to maintain the petitioner.
4. It is further alleged that the opposite party is able bodied; he owns properties and he has a toto vehicle. His monthly income is Rs. 30,000/-. On the other hand, the petitioner does not have any income of her own.
5. Under these circumstances the petitioner has prayed for grant of monthly allowance of Rs. 15,000/- for maintenance of herself from the opposite party during the pendency of this case.

Rival contentions:

6. In the written objection filed by the opposite party all the major allegations leveled against him have been denied. The marriage between the parties has been admitted.
7. It is contended by the opposite party that the petitioner did not like him and never gave him respect as a husband as he is a labourer and is poor.
8. It is further contended that after marriage the petitioner used to habitually go to her father's house and the opposite party time and again used to bring her back to the matrimonial house. Finally, towards the end of April, 2024 the petitioner went to her father's house permanently. The opposite party tried his level best to bring the petitioner back but he failed.
9. It is further contended that the opposite party being a day labourer earns only Rs. 250/- to Rs. 300/- per day. Whereas, the petitioner earns Rs. 200/- to Rs. 250/- per day by binding bidi. Since the petitioner voluntarily went to her father's house she is not entitled to any maintenance.
10. In the light of these contentions the opposite party has prayed for rejection of the instant application.

Analysis:

11. The instant application, the written objection and the affidavits of disclosure of assets and liabilities filed by the parties have been carefully perused and considered.
12. It appears that the marriage of the parties is admitted. Whether the petitioner was ousted from her matrimonial home forcibly by the opposite party or she is residing at her father's house voluntarily are matters to be decided at trial. All the rest of the allegations of the petitioner are issues of merit that will be weighed, considered and determined at the time of final hearing of the case. In the meantime, what is seen from the affidavit of assets and liabilities of the

petitioner is that she does not have any independent source of income of her own. She has declared the monthly income of the opposite party to be Rs. 30,000/-. The question of the opposite party's profession and that of his income shall be finally decided upon trial of the case. Similarly, whether the petitioner earns Rs. 200/- to Rs. 250/- per day by binding bidi shall be subject to strict proof by the opposite party on merits.

13. At this stage, prima facie, even if the contention of the opposite party that he is a day labourer is accepted, it is a fact to the common knowledge of any man of ordinary prudence that the daily wage of a day labourer prevalent at present is Rs. 400/- to Rs. 450/- per day, and thus, even by this presumption, the monthly income of the opposite party as a day labourer (yet to be proved) must be at least Rs. 12,000/- to Rs. 13,500/-. The opposite party has to fulfil the obligation cast upon him by the law of the land with regard to his wife, though estranged, and for that he has to put in a bit of extra effort.

Conclusion:

14. In view of the above analysis, this Court has reached the conclusion that at this juncture the petitioner should be granted some amount of monthly allowance during the pendency of this case in the interest of justice so as to prevent vagrancy. The prayer of interim maintenance allowance by the petitioner thus deserves to be allowed. It is found appropriate to grant a monthly allowance of Rs. 3,000/- for interim maintenance of the petitioner during the pendency of this case payable by the opposite party to the petitioner from the date of filing of this case which amount would neither be luxurious to one nor penurious to the other.
15. Hence, it is

ORDERED

that the application dated 22.07.2024 filed by the petitioner for grant of interim maintenance allowance be allowed on contest.

16. The opposite party shall make a monthly allowance of Rs. 3,000/- for interim maintenance of the petitioner from the date of filing of the present application on the tenth day of every successive month till the final disposal of this case, failing which, the petitioner shall be at a liberty to take necessary legal steps for filing a case of execution to realise the above amount.
17. This Order shall cease to have effect on and from the date of the final judgment in the instant case.
18. Fix 11.04.2025 for payment and for evidence of P.W.
19. Let a copy of this Order be supplied free of cost to both the parties.

Dictated and corrected by me

Sk Alfaz Firdous
Judicial Magistrate 1st Court
Rampurhat, Birbhum