

Misc. Case 194/2024

Order No.08

Dated : 06.05.2025

Today the record is fixed up for passing order in respect of interim prayer U/S 144 BNSS.

Both parties filed Hazira.

The record is taken up for passing order in respect of the prayer for interim maintenance.

Upon consideration of the record, it appears that the petitioner has made out a case that she was lawfully married to the opposite party on 24.07.2014 according to Hindu rites and customs, and the said marriage was also duly registered. At the time of marriage, the petitioner's father provided dowry articles as per the demands of the opposite party and his family members, including a wooden bed, a steel almirah, approximately 3 boris of gold ornaments, and 16 other household items.

After marriage, the petitioner started residing in her matrimonial home and a male child, namely Sainath Bhowmik, was born out of the wedlock, who is presently around 7 years old.

The petitioner has alleged that within two months of the marriage, she was subjected to verbal abuse by the opposite party and his family members on the ground of her appearance and the alleged inadequacy of dowry articles. The opposite party, often returning home in an intoxicated state, allegedly used obscene language and abused her both physically and mentally, frequently pressuring her to leave the matrimonial home. Despite informing her in-laws about such cruelty, they allegedly joined in the abuse and compelled her to leave.

With the hope of securing a better future for her minor son, the petitioner bore the torture for years. However, about one year prior to the institution of this proceeding, she was forcibly dispossessed along with her belongings and child from the matrimonial home. Thereafter, she sought shelter at her paternal home.

Subsequently, the petitioner has alleged that her minor son was deceitfully taken away by the opposite party's father on the pretext of a

religious visit and has not been returned since. She has been denied access or communication with the child. On 20.07.2024, when the petitioner attempted to visit the matrimonial home to see her son and reconcile the matter, she was abused and driven out by her in-laws without being permitted to meet her child.

The petitioner claims to have no independent source of income and is presently dependent on her aged and poor father. She has further stated that the opposite party is a man of sufficient means, running a tea stall and a stationery shop at Nimtala Bazar, from which he earns approximately Rs. 30,000/- to Rs. 40,000/- per month, and he owns a two-storied pucca house. No one else is dependent on his income.

Despite having sufficient means, the opposite party has allegedly refused and neglected to provide any maintenance to the petitioner. The petitioner has also filed a criminal complaint under the Dowry Prohibition Act against the opposite party and his family members, which is pending adjudication.

In response, the opposite party has filed a written objection denying all material allegations and alleging instead that the petitioner was quarrelsome, negligent towards domestic duties, and voluntarily left the matrimonial home leaving the child behind. The opposite party has further claimed that he is currently working as a day labourer with a meagre income of Rs. 12,000/- per month.

I have perused the affidavits of assets and liabilities filed by both parties. Marriage and the fact that the petitioner is presently residing separately from the opposite party are admitted. In the context of Hindu matrimonial norms, the independent living of the wife at her paternal home, absent compelling justification, is not natural and calls for further judicial scrutiny during trial. The materials on record prima facie suggest that the petitioner has reasonable grounds to live separately and sustain a claim under Section 144 BNSS.

Even though the opposite party has claimed to be a day labourer earning Rs. 12,000/- per month, the Court finds this contention unconvincing in the absence of corroborative documents. In common experience, a daily wage earner earns between Rs. 350/- to Rs. 400/- per day. Thus, even by a

conservative estimate, a monthly income of Rs. 11,000/- to Rs. 12,000/- may be presumed.

As the opposite party has not established any income or earning capacity on the part of the petitioner, and having regard to the prevailing socio-economic standards, the Court is of the considered view that the petitioner is entitled to a reasonable sum by way of interim maintenance.

Accordingly, the prayer for interim maintenance is liable to be partly allowed.

Hence, ORDERED

that the interim prayer U/Sec. 144 BNSS is allowed on contest.

The O.P. is directed to pay **Rs. 3,000/- (Rupees Three Thousand) per month** in favour of the Petitioner **Sampa Debnath Bhowmick** as monthly maintenance.

This order be effective from the date of filing of this application **i.e. 2308.2024.**

Opposite party has a liberty to pay the arrear amount of maintenance by **four (4)** monthly installments. But, such arrear amount must be paid by the opposite party within **September, 2025**. Opposite Party is further directed to pay the aforesaid monthly maintenance to the petitioners by the 10th day of every succeeding English calendar month. In failure of which the petitioner will be at liberty to execute order by the process of law.

Let a Photostat copy of this order be supplied to the petitioner free of costs.

To **26.08.2025** for Evidence.

Dictated and corrected by

**Judicial Magistrate
2nd Court, Kalna**

**Judicial Magistrate,
2nd Court, Kalna
(JO Code WB 01389)**