

Misc. Case 222/2023
CIS No. 222/2023

Order No 09

Dated : 10.01.2025

Today the record is fixed up for passing an order in respect of an application under Section 125 of Cr.P.C.

The petitioner is present by filing a hazira.

Ld. Advocate on behalf of the O.P. is also present.

The petitioner in this case claims that she is the legally wedded wife of the Opposite Party (O.P.), and their marriage was solemnized in 1995 according to Hindu rites and customs. After the marriage, the petitioner lived with the O.P. as husband and wife, and from this union, they have two children, Paramjit Bagchi (aged 25 years) and Pappu Bagchi (aged 20 years). She further alleges that after the marriage, she was subjected to both mental and physical abuse by the O.P. She claims that the O.P. did not provide her with proper care, food, or support. After the birth of their children, the abuse allegedly worsened, and the petitioner endured the torture in hopes of a better future.

The petitioner further states that on 18.09.2016, the O.P. and his family members physically assaulted her with fists and blows, took away all of her stridhan (personal property given to her at the time of marriage), and threw her out of the house with nothing but one single piece of clothing. Following this incident, the petitioner filed a case under Section 498A of the Indian Penal Code (IPC) against the O.P. and his family members, which was registered as Kalna P.S. Case No. 207 of 2017. The case is still pending before the 1st Judicial Magistrate's Court.

At present, the petitioner is in a state of helplessness and is living with the support of her poor parents, often experiencing hunger and sometimes

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surviving on very little food. She is unable to earn any income on her own. In contrast, the Opposite Party is employed as a crane operator, earning approximately Rs. 30,000 (thirty thousand) per month, and owns his own house. The Opposite Party is a healthy and strong individual, yet he has not provided any food, clothing, or any form of support to the petitioner. He has failed to inquire about her well-being or fulfill any social or humanitarian responsibilities towards her. As a result, the petitioner, in dire need of food, clothing, shelter, and medical treatment, has sought refuge in the court.

The Petitioner claimed that she has no sufficient means to maintain herself, that is why, she claims Rs. 10,000/- per month as maintenance for herself.

Here in this case, O.P. is contesting by filing written objection wherein he denies all the claims of the petitioner except the fact of their marriage and claims that this interim maintenance application shall be dismissed on the threshold.

In this case, the Opposite Party (O.P.) has admitted that the petitioner is his wife. However, the O.P. has alleged that the petitioner had an illicit relationship with a person named Nirmal Mondal, and that she left her matrimonial home of her own volition. The O.P. further claimed that he was engaged in a sari business and that the petitioner broke an almirah, stealing Rs. 26,000 and important documents.

The O.P. also stated that he worked at Balaji Company in Durgapur, earning Rs. 10,000 per month. However, after the Covid-19 pandemic, he now works on a temporary basis and earns between Rs. 10,000 to 12,000 per month. He mentioned that his two sons are dependent on him. Additionally, he claimed that the petitioner filed a false case at Cokeoven Police Station, which is registered as Case No. 120 of 16, dated 04.10.2016, and this case is still pending.

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Heard the submission of both the Ld. Counsels.

Perused the Affidavit on asset liability and other materials on record.

Considering the above facts and circumstances, it appears that the petitioner is in a vulnerable financial situation and is unable to support herself. The Opposite Party, despite having a stable income from his job, has failed to provide the petitioner with adequate support. The petitioner has sought maintenance to meet her basic needs for food, clothing, shelter, and medical treatment. Moreover, it is not denied by the opposite party that he had not paid any maintenance towards his wife since their separation.

Based on the prima facie assessment of the situation, it can be reasonably concluded that the petitioner is entitled to maintenance. Given the financial capacity of the Opposite Party, a provisional amount of Rs. 2,000 per month as maintenance seems reasonable and appropriate for the petitioner, pending the final resolution of the case. This amount would help alleviate the petitioner's immediate hardship and ensure that she is provided with some basic financial support.

This amount may be subject to modification depending on further evidence and the final decision of the court.

Hence, it is,

Ordered

that the instant interim maintenance application is allowed on contest .

The O.P. is directed to pay Rs. 2,000/- (Two Thousand) per month in favour of the Petitioner as monthly maintenance, from the date of filing of this interim petition till the disposal of this case.

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O.P has a liberty to pay the arrear amount of maintenance by six monthly installments. But, such arrear amount must be paid by the opposite party within July, 2025.

Opposite Party is further directed to pay the aforesaid monthly maintenance to the petitioners by the 10th day of every succeeding English calender 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 **03.05.2025** for Evidence.

Dictated and corrected by

Sd/-

**Judicial Magistrate, Kalna
Purba Bardhaman(I/C).
(JO Code WB 01389)**

Sd/-

**Judicial Magistrate, Kalna
Purba Bardhaman(I/C)
(JO Code WB 01389)**