

Misc. Case No. 03 of 08 of 2024 (Rg. No. 07 of 2024)

Present : Sri C. Pramanik, J. M. 2nd Court, Bishnupur, (J.O. Code WB01207)

Smt. Keya Nandi and her minor daughter ---Petitioners
-versus-
Manoj Nandi -- the O.P.

Order dated 24-02-2025

Today is fixed for passing order on hearing of petition filed by the petitioner namely Smt. Keya Nandi praying for interim maintenance for herself and for her minor daughter.

Both sides filed Ld. Advocate's hazira.

Heard Ld. Advocate on behalf of both parties.

This court has heard the submission of Ld. Counsel appearing for the respective parties and also perused the documents annexed with the petition as well as with written objection.

On perusal of the petition as well as written objection filed by the parties to the case, it appears that the petitioner no. 1 has married with the OP as per Hindu Rites and Customs on 13.07.2011. After their marriage, she went to her matrimonial house. During their wedlock they blessed with one girl child, who is now 12 years of age. After her marriage, the OP allegedly inflicted torture upon her which was escalated day by day. The OP assaulted the petitioner no. 1 in intoxicated condition. The OP pressurized the petitioner no.1 to co-habit with another relative of the OP. For the said allegation a specific case has been registered at Joypur PS. Lastly on 29-07-2023 the OP and his relatives ousted her. Since then the OP enquire about the well being of the petitioner no.1 or her minor daughter. Both the petitioners are unable to maintain themselves. The OP is agricultural labour and having agricultural land of 2 to 3 bighas and also is working as Tikka work of cultivation. From all the sources, the OP earns of Rs.30,000/- per month. The petitioner prays for maintenance of Rs.5,000/- per month for herself and Rs.3,000/- per month for her minor daughter.

Per contra the OP categorically denied all the material allegations against him and the OP argued that petitioner had stated all false facts and the real situation is that the petitioner dislike the OP and insult him openly as he is 12 years older than the petitioner. She had illicit relation with another person namely Durgapada Nemo. On 29-07-2023 in absence of the OP, the petitioner left her matrimonial house along with her minor daughter and all her Stridhan property.

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Even the petitioner had no relation with her parents. Whenever the OP tried to make contact with the petitioner, she threatened him to entangle in false cases. The petitioner has instituted a case for divorce against the OP being Mat. suit 198 of 2023 before Ld. ADJ, Bishnupur, Bankura. The OP is a day labour having no landed property and earns only Rs.3,000/- per month. The petitioner earns Rs.6,000/- per month by sewing. The petitioner has filed the present case in order to harass the OP.

During hearing of interim maintenance petition, Ld. Advocate for both the parties submitted that the marriage between parties is admitted by both the parties. Ld. Advocate for the OP submits that the petitioner willfully left her matrimonial house. Ld. Advocate further submitted that the petitioner earns Rs.6,000/- by sewing and Ld. Advocate also alleged that the petitioner had illicit relation with other person and as such she is not entitled to any interim maintenance.

At this stage no evidence have been comes forward. Both parties have made their assertion on affidavit. At the stage of hearing of an application for interim maintenance the court has to satisfy itself regarding the prima facie case for passing such order. Where a prima facie case has been made out, interim maintenance cannot be denied unless it is barred by other provisions of law. In the instant case, the marriage between the parties has been admitted by the OP and they were blessed with one daughter child. It is also admitted that the petitioner is living and the OP has not provided sufficient maintenance to the petitioner or her minor daughter since they are living separately. There is no plea on the part of the O.P that he is not an able bodied person. There is no plea also that OP provided sufficient amount of maintenance to the petitioner since their separation. Although both the parties have alleged against each other regarding the illicit relation, but, at this stage neither of the parties put forward any convincing prima facie material in order to believe that either of the parties have illicit relation in absence of evidence.

Considering all aspects and the declaration made by the parties to the case, this court is of opinion that there is presence of urgency to grant interim monetary relief as prima facie case is made out in favour of the petitioner. As there is no plea on the part of the OP that he is not an able bodied person, the liability cast upon the OP to take full care of his wife and the OP is duty bound to maintain his legally married wife and he cannot escape from such liability. It is admitted fact that the

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petitioner and the OP are living separately. A husband in affluent circumstances should pay maintenance in accordance with the status of the spouses. The principle laid down by the Hon'ble Apex Court is that the object being to prevent vagrancy and destitution, it has to be found out what is required by the wife to maintain a standard of living which neither luxurious nor penurious, but is modestly consistent with the status of the family. Neither of the parties submitted any documentary evidence regarding their respective income or having any immovable property of them.

Thus, having regard to the price hike of essential commodity, the status and requirement of the petitioner and also keeping in view the physical capacity of the OP, that a quantum of maintenance is to be awarded in favour of the petitioner which should match to the standard of both spouses.

Hence, it is

Ordered

the application for interim maintenance of the petitioner succeed to the extent that **Smt. Keya Nandi** is entitled to get a monthly maintenance amount of Rs.2,000/- (Rupees Two thousand) only per month for herself and Rs.1,000/- (Rupees One thousand) only per month for her minor daughter (total of Rs.3,000/- per month) from the date of passing of this order.

The **OP Manoj Nandi** is directed to pay the aforesaid amount of maintenance within seventh (07th) day of every succeeding month when it falls due. The petitioner Smt. Keya Nandi shall be at liberty to put the instant order into execution if the Opposite Party fails to abide by the same.

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

Fixing **23-05-2025** for evidence.

D & C by

Judicial Magistrate, 2nd Court,
Bishnupur.

Judicial Magistrate, 2nd Court,
Bishnupur.(JO Code WB01207)