

Misc. Case No. 08 of 18 of 2024 (Rg. No. 17 of 2024)

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

Smt. Aparupa Dan @Aparuna Mondal and another ---Petitioners
-versus-
Ranjan Mondal -- the O.P.

Order dated 08-01-2025

Today is fixed for passing order on hearing of petition filed by the petitioner namely Aparupa Dan @ Aparuna Mondal praying for interim maintenance for herself and her minor daughter.

Both sides file Ld. Advocate's hazira.

Ld. Counsels of both sides are also present.

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 got married with the OP on 13-11-2009 and their marriage was Registered under Special Marriage Act. Subsequently on 29-06-2013 their social marriage took place at the paternal house of the petitioner. During their marriage, the father of the petitioner was given cash of Rs.8 0,000/, jeweleries made up gold, cot, Almirath, Garments, furniture and other articles to the OP. The petitioner was a highly educated woman. After her marriage she went to her matrimonial house. They were blessed with one girl child. After 2/3 months of birth of their girl child, the OP and his relatives started made indecent remark for giving birth of a female child. Whenever the petitioner informed the matter to her husband, her husband did not take any action. Rather the OP started inflicting mental torture and put pressure her to bring more money from her father. The petitioner jointly purchased a landed property by taking personal loan in the year 2020. But the OP and his relatives started to put pressure upon the petitioner to transfer the said property in favour of the brother of the OP. Whenever the petitioner refused to make such transfer of the said landed property, the OP and his relatives started to inflict mental torture upon her and her minor daughter. On 30-11-2022 the OP ousted her along with her minor daughter. She compelled to take shelter at her paternal house. As the petitioner is highly educated and in a service in a Private Company at Haldia, she is now residing at Haldia and her minor daughter is staying at her paternal house along with her grand parent. The OP and his relatives did not inquire about the well being either the petitioner or her

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daughter. The OP did not provide any maintenance either to the petitioner or to her minor daughter. The OP is an able bodied person and running business at Retail Grocery Shop and Stationery Goods and Rs.50,000/- per month. Besides that, the OP earns Rs.10,000/- to Rs.15,000/- from rent and by rent out of own car. The petitioner claims the maintenance of Rs.5,000/- for herself per month and Rs.10,000/- for her minor daughter per month (in total of Rs.15,000/- per month).

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 has left her matrimonial house willfully along with her minor child. On various occasions the OP went to take her back. But she refused to return. The OP alleged that the petitioner has lodged this case in order to harass the OP. The OP on good faith purchased jointly landed property by two registered deed of sale in the year 2019 and 2020 respectively. Thus, petitioner possessed sufficient landed property. In order to substantiate his claim, the OP has submitted copies of Deed of Sale stands in the name of the petitioner as one of the co-sharer. Moreso, the petitioner earns more than 200 times than the OP. The petitioner has sufficient means of livelihood from her own job at Haldia Petro Chemical. On the contrary, the OP is working as caretaker of a canteen and earns Rs.6,000/- per month. Thus, in the said circumstances he was not able to pay any maintenance to the petitioner and he prays for rejection of the instant petition.

During hearing Ld. Advocate for the OP submitted that marriage between the parties and birth of their girl child are admitted. But Ld. Advocate for the petitioner argued by referring the affidavit of assets and liabilities of the OP, that if the OP is earns Rs.6,000/- only how he is paying two EMI of Rs.9,300/- and Rs.8,500/- respectively which the OP mentioned in page No.4 of his affidavit for disclosure of assets and liabilities. Ld. Advocate further submits that even the OP is the owner of landed property jointly with other, he has withheld and suppressed the same.

Both the parties filed their respective affidavits for disclosure of assets and liabilities. The petitioner in her said affidavit has mentioned that her general monthly expenses including the education, medical expenses are about Rs. 30,000/- per month and claimed that the OP earns about Rs. 50,000/- per month.

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

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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. But from the affidavit of assets and liabilities of the petitioner it appears that the petitioner admittedly earns Rs.25,000/- per month as Store Manager at Private Concerned at Haldia. Moreso, the petitioner herself admitted in her affidavit for assets and liabilities in page no. 5 that she is owner of landed property. The OP has filed two Deed of Sale to show that petitioner is the joint owner of the two landed property at South 24 Parganas. Thus , the petitioner is able to maintain herself and as such I find no urgency to pass any order of interim maintenance in favour of the petitioner. In my humble opinion the petitioner has failed to substantiate her prima facie case in her favour. But admittedly a minor daughter namely Ahana Mondal have begotten during the wedlock between the petitioner and the OP. There is no submission on behalf of the OP that he is maintaining his minor daughter by providing any maintenance to her. A minor daughter of the OP cannot be deprived to get maintenance from her father while she is living separately at her maternal house. The OP is duty bound to maintain his minor daughter.

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 minor child of the OP. It is admitted fact that the minor child of the petitioner and the OP are living separately. A father in affluent circumstances should pay maintenance in accordance with the status of the father. 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 minor daughter of the OP to maintain a standard of living which neither luxurious nor penurious, but is modestly consistent with the status of the family. Thus, having regard to the price hike of essential commodity, the status and requirement of the minor daughter of the petitioner and also keeping in view the physical capacity of the OP, that a quantum of maintenance is

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to be awarded in favour of the minor daughter of the petitioner only which should match to the standard of living of the OP and the petitioner.

Hence, it is

Ordered

the application for interim maintenance of the petitioner succeed to the extent that minor daughter of the petitioner namely **Ahana Mondal** is entitled to get a monthly maintenance amount of Rs.6,000/- (Rupees Six thousand) only per month for the said minor daughter from the date of passing of this order.

The OP Rajan Mondal is directed to pay the aforesaid amount of maintenance within seventh (07th) day of every succeeding month when it falls due. The minor petitioner namely Ahana Mondal 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 **03-04-2025** for evidence.

D & C by

Judicial Magistrate, 2nd Court,
Bishnupur.

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