

Misc 40/2020 (Reg. No. 42/2020)
Present: Ms. Aliviya Bhattacharya
JO Code:WB01364

13.11.2025

Today is fixed for passing order in respect of petition for interim maintenance filed by the petitioner/wife namely Munmun Chakraborty.

Parties file their respective haziras.

OP files his affidavit of assets and liabilities. Let it be kept with the record.

Now the record is taken up for passing order.

The petitioner's case in a nutshell is that the petitioner is the legally married wife of the OP Arnab Chakraborty and their marriage was solemnized on the 10.02.2006 as per Hindu rights and customs. At the time of their marriage the father of the petitioner gave cash of Rupees 4,00,000, 5 bhories of gold ornaments, along with furniture as per the demand of the OP. After her marriage the petitioner went to her matrimonial home and started her conjugal life. Subsequently the petitioner gave birth to one daughter. The petitioner was subjected to physical and mental torture in her matrimonial home by her husband and in-laws. The OP allegedly had extra-marital relationships as well. The OP and his family members allegedly also demanded further dowry of Rs. 500000/- from the petitioner. On the failure of the petitioner to meet such demand, she was allegedly subjected to further torture. On 25.05.2020 late at night, the OP forced the petitioner to consume Lopez 2 of 20-22 pc. The daughter of the petitioner informed her parents who rescued the petitioner and admitted her to hospital. Since then the petitioner is living at her father's house along with her minor daughter. The OP has allegedly not paid a single farthing to the petitioner since then. According to the petitioner she has no income of her own whereas the OP is an able-bodied person who earns Rs. 45,000/- per month as a Government School teacher. So, the petitioner prays for interim maintenance at the tune of Rs. 20,000/- per month for herself and her minor daughter.

The OP has filed this written objection against the instant petition disputing and denying all the material allegations leveled by the petitioner. However, the marriage and paternity stands admitted. The OP states that the OP has given one time maintenance to the petitioner by transferring a house in her name. The petitioner left her matrimonial home voluntarily along with her minor child. At present the OP does not have a house of his own and he is living at his maternal uncle's house. The petitioner is surviving after selling off the said house which was transferred to her by OP. He further states that his salary gets exhausted in repayment of loan and in maintaining his family. Thus, he prays for the rejection of the instant petition.

Both parties have filed their respective affidavit of assets for liabilities and I have carefully perused them.

In order to get an order of interim maintenance allowance, petitioner has to satisfy this court Prima facie that :-

- 1) she is the legally married wife of the Opposite party and**
- 2) Opposite party has failed and neglected to maintain the petitioner, in spite of having sufficient means,**
- 3) Petitioner is unable to maintain herself.**

In the instant case, without prejudging any points raised by the respective parties, it appears to this court that till date the marriage is subsisting between the parties, meaning thereby they are, at present husband and wife. Strict proof of marriage is not required. Such proposition of law has been enunciated by Hon'ble Apex Court in **Dwarika Prasad Satpathy Vs Bidyut Provat Dixit AIR 1999,SC 3348**. The respondent has not even challenged their relationship. Thus, their relationship that of a husband and wife and father and daughter is prima-facie established. As a husband, the opposite party is duty-bound to maintain his wife and the child, if any and in the instant case not a single farthing has been paid to show the bona-fide gesture.

The petitioner allegedly left her matrimonial home along with her minor son due to torture by the respondent and thereafter she took shelter at her parent's house and since then she has been residing at her parents' house along with her minor son. Whatever may be the reason, the fact remains that Petitioner has been residing at her parents' house and there is no whisper in the four corners of record suggesting that respondent ever provided maintenance to the petitioner during the period of her stay at her parent's house. The OP has contended that a house is transferred to the petitioner as one time settlement of maintenance. However, there is no scrap of paper in record to suggest that any such one-time settlement was agreed to between the parties or any such property was indeed transferred. The position being such, it can be prima-facie said that Opposite Party has failed and neglected to maintain the petitioner.

The next question is whether the respondent has sufficient means or not? Petitioner contended that the respondent is well-abled and healthy man. The OP works School Teacher of WB Government and earns Rs. 53000/- as evident from his affidavit of assets and liabilities. In the light of the foregoing discussion, I am of the view that respondent has sufficient means to maintain the petitioner.

Petitioner also contended that she has no independent source of income. Same is supported by her affidavit of assets and liabilities. The contention of the Petitioner goes unchallenged by the respondent. Having regards to all these circumstances, I find no reason to disbelieve the assertion made by the Petitioner prima-

facie. So, the petitioner is able to establish prima-facie that she has no independent source of income. In other words, it can be said that Petitioner is unable to maintain herself.

The provision of the chapter IX of Code of Criminal Procedure 1973 is intended to fulfil a social purpose. Their object is to compel a man to perform the moral obligation which he owes to the society in respect of his wife and children. By providing a simple, speedy but limited relief, it was aimed to ensure that the neglected wife and children are not left beggared and destitute on the scrap-heap of the society and thereby driven to a life vagrancy, immorality and crying crime for their subsistence.

In view of the discussion made above and regards being had to the provisions of law and other materials on record in the considered view of this court, Petitioner is entitled to get interim maintenance allowance for herself from the OP. But the question is what amount should be awarded to the Petitioner which can said to be reasonable. The petitioner though has claimed maintenance to the tune of Rs.20000/- per month for herself and her minor daughter. I have carefully perused the affidavit of assets and liabilities of the petitioner and the respondent. I have perused the affidavit of assets and liabilities by both parties. Considering the present market price and status of the parties, this court is of the view that if, Rupees 2500/- per month each is allowed in favor of the Petitioner and her minor daughter, thus totaling Rs. 5000/- per month towards the interim maintenance allowance, it would be reasonable to either of the parties.

Hence, it is

ORDERED

that the present application for interim maintenance allowance is hereby allowed on contest in part in favor of the Petitioner but considering the circumstances without any cost.

The OP is hereby directed to make payment of a sum of Rs. 2500/-per month (Two Thousand and Five Hundred only) each towards the maintenance of the petitioner and her minor daughter amounting to a total sum of **Rs. 5000/- (Rupees Five Thousand Only)** towards the interim maintenance allowance from this date till disposal of this case.

The payment must be made within 10th day of each succeeding English Calendar month failing which, the petitioner is at liberty to realize the same through court.

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

Fix 07-01-2026 for evidence.

Typed & Printed by me

**Judicial Magistrate, 3rd Court
Bishnupur,Bankura**

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