

Misc. Case No. 93 OF 46 OF 23

Reg. 85 of 23

Interim Order

Present: **Miss Sosanna Rai**
 Judicial Magistrate 1st class,
 3rd Court, Bishnupur.

Date: 25.03.25

Today is fixed for passing order regarding interim maintenance.

Petitioner is present with Ld. Lawyer's hazira.

Opposite Party is present with Ld. Lawyer's hazira.

Record is taken up for order.

This is a case u/s 125 of the Cr.P.C. filed by Prabir Kumar Ghosh the petitioner on behalf of minor grandchild against Sirshendu Mondal the Opposite Party (herein after referred as O.P). The petitioner submits that the O.P is the husband of his deceased daughter and they got married on 09.12.20 as per Hindu Rites and Customs. At the time of marriage he gave cash two lacs fifty thousand , fifteen bhories gold ornaments and many others things to the petitioner. After marriage petitioner went to her matrimonial house and started her conjugal life with O.P. Petitioner also gave birth of one child during her conjugal life. During her stay at her matrimonial house O.P and his family members pressurized her to bring rupees one lac from her parental house and when she could not fulfill their demand then they started mental and physical torture upon her. Lastly on 26.05.21 petitioner's daughter got expired and petitioner was intimated that her daughter got expired by hanging. At present his grandchild is minor as such petitioner filed this case on behalf of the minor grandchild claiming for maintenance for her subsistence. Petitioner's minor grandchild is minor at this stage and O.P is an able bodied person and he is a High School Teacher at Kalipur and his monthly income is rupees seventy to eighty thousand per month.

The petitioner filed this case under section 125 Cr.P.C. on 22.06.23 praying for maintenance amount of Rs. 30,000/- (rupees thirty thousand)P/M for her minor grandchild. Petitioner also filed this instant application for interim maintenance on the same date and prays for an amount of Rs. 25,000/- (rupees twenty five thousand)P/M for his minor grand child as interim relief.

The Opposite party appeared in this case and filed written objection against the interim maintenance application. In his written objection the opposite party denied the entire allegation alleged against him by the petitioner in his application. O.P. stated that his net pay is forty thousand and he denied to have income as stated in the petition of the petitioner. O.P. further stated that he has to look after his second wife and aged parents and aged uncle and aunty.

In these circumstances the opposite party prays for rejection of the interim maintenance application.

Heard both sides. Considered.

In this case there is no denial in respect of the marriage by the opposite party. The case is at the initial stage as no evidence has been given by the petitioner. Perused the

declaration of asset and liabilities submitted by both sides. I have also perused the photocopies of documents submitted by O.P.

In these circumstances in view of this court as the petitioner's daughter was the legally married wife of the opposite party, and the minor child is the daughter of O.P. .However, O.P. filed some documents by firisti showing that he has been paying maintenance to his minor child. Considering all the petitioner's grandchild being the minor daughter of O.P. is entitled to claim interim maintenance for her subsistence.

Now the question is in respect of quantum of the maintenance amount. The petitioner claims/prays for an amount of Rs. 25,000/- (rupees twenty thousand) per month for his minor grandchild and the opposite party claims that his net pay is forty thousand and he denied to have income as stated in the petition of the petitioner. As per the judgment of the Hon'ble Apex Court husband cannot deny the maintenance to his legally married wife and minor child. In this particular case the petitioner at this stage could not prove the income of the opposite party is Rs. 70,000/- to 80,000/- (rupees seventy to eighty thousand) per month as stated in the main application of maintenance as it is a matter of trial and it can not be decided at this stage as no evidence yet been adduced.

Considering all the above facts and circumstances, this court is inclined to allow the application of the petitioner with a direction to the opposite party to pay an amount of Rs. 15,000/- (rupees fifteen thousand) per month to the petitioner's minor grandchild from the date of filing of this case ; failing which the petitioner will be at liberty to put the order into execution till disposal of the case.

The Opposite party is also directed to pay the interim maintenance of each month within the 10th day of each month.

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

Fix 13.06.25 for evidence.

Dictated & Corrected by me,

**Judicial Magistrate,
3rd court Bishnupur, Bankura.
J.O.CODE WB01291.**

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3rd court Bishnupur, Bankura.
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