

**Misc. Case No. 22 of 60 of 2024 (Rg. No. 53 of 2024)**

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

**Malati Rudra ---the Petitioner  
-versus-  
Amarnath Dhibar-- the O.P.**

**Order dated 17-02-2025**

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

Both sides filed Ld. Advocate's hazira.

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 and the OP had love relation for a long time and subsequently they were married to each by registry on 17-10-2017. After few days of their marriage, the petitioner went to her matrimonial house to lead her conjugal life with the OP. But the OP and his family members asked the petitioner to bring cash of Rs.5 lakh, gold weighing five bhories from her paternal house and inflicted torture upon the petitioner and did not provide proper food to her. Lastly on 05-11-2017 in the evening the OP and his family members assaulted her and ousted the petitioner from her matrimonial house. Since then the petitioner has compelled to take shelter at her paternal house. The OP did not enquire about the well being of the petitioner and did not provide any maintenance. The petitioner has no income of her own. The OP is a renowned tuition teacher from which he earns Rs.25,000/- per month. The OP also earns Rs.15,000/- per month by cultivating of landed property and by fisheries. Thus, the petitioner prays for interim maintenance of Rs.12,000/- 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 never went to her matrimonial house. Whenever the parents of the petitioner tried to arrange her marriage, the petitioner and the OP jointly dissolved the marriage of the petitioner with any other person on various pretext. When the father of the petitioner pressurized her, she divulged her registry marriage with the OP. Since then, parents of the petitioner never allowed her to meet with the OP. The parents of the petitioner never accepted their relation as the OP was unemployed. The OP is always willing to take the petitioner as his wife and

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willing to maintain her. But the relatives of the petitioner misguided her to file a case for dissolution of their marriage before Ld. ADJ, Bishnupur bearing Mat. Suit No. 92 of 2023 which is still pending. The OP alleged that no social marriage took place between the parties and pressurized the OP to divorce the petitioner. The OP alleged that as the OP opted to contest the said Mat. Suit for divorce, the petitioner filed this present case in order to harass the OP. The OP earns only Rs.3,000/- per month by taking tuition and possessed no landed property or pond for pisciculture.

Ld. Advocate for the OP submits that the petitioner has filed the case for divorce against the OP for dissolution of their marriage bearing Mat. Suit 92 of 2023 before the Ld. ADJ, Bishnupur and in which the petitioner also filed a prayer for interim alimony.

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 by registry marriage has been admitted by the OP and also admitted that the petitioner is living at her paternal house and the OP has not provided sufficient maintenance to the petitioner since they are living separately. There is no plea on the part of the O.P that he is not an able bodied person. Admittedly no interim alimony was awarded to the petitioner in the case for divorce bearing Mat. Suit no. 92 of 2023. The petitioner in her affidavit for disclosure of assets and liabilities, stated that her general monthly expenses is Rs.12,000/-. The OP still has not filed any affidavit for disclosure of assets and liabilities even after repeated direction and it would prejudice the petitioner if the court wait for a indefinite period for pleasure of the OP. Where the OP has preferred not to file his affidavit for disclosure of assets and liabilities and the legal consequence thereof should be faced by the OP.

In the present case, there is no plea also that OP provided sufficient amount of maintenance to the petitioner since their separation. There is no specific document on part of the OP that he only earns Rs.3,000/- per month. Similarly, the petitioner could not able to submit any document in support of her claim that the OP earns Rs.40,000/- per month. There is no evidence at this stage that the OP has provided any single farthing to the petitioner since their separation, although the petitioner claimed in her affidavit that the OP earns Rs.40,000/- per month. The OP did not file any affidavit for assets and liabilities in order to counter the claim of the petitioner regarding his monthly income.

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Thus, prima facie case tilts in favour of the petitioner as there is no evidence of providing any maintenance to the petitioner since their stay separately.

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 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 Malati Rudra is entitled to get a monthly maintenance amount of Rs.3,000/- (Rupees Three thousand) only per month for herself from the date of passing of this order.

The OP Amarnath Dhibar is directed to pay the aforesaid amount of maintenance within seventh (07<sup>th</sup>) day of every succeeding month when it falls due. The petitioner Malati Rudra 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 **19-05-2025** for evidence.

D & C by

Judicial Magistrate, 2<sup>nd</sup> Court,  
Bishnupur.

Judicial Magistrate, 2<sup>nd</sup> Court,  
Bishnupur.( JO Code WB01207)

