

**Misc. Case No. 155/71 of 23**

**Reg.145 of 2023**

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

**Date:** 09.12.24

Today is fixed for order.

Petitioner is present with Ld. lawyer's hazira.

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

Ld. Advocate for the O.P filed a fresh declaration of assets and liabilities. Perused. Let it be kept with the case record.

Record is taken up for order.

This is a case u/s 125 of the Cr.P.C. filed by Mamata Begam the petitioner against Kaji Imran Hossain the Opposite Party ( herein in after referred as O.P). The petitioner submits that the O.P is her husband and they got married on 01.11.15 as per Muslim Rites and Customs. At the time of marriage petitioner's father gave cash rupees one lac, 8 vories gold ornament, two Almirah, 3 mobile, one motor cycle to O.P. During conjugal life petitioner gave birth of one female child. After the birth of the said female child petitioner was inflicted to tortured by the O.P and by his family members both physically and mentally. Petitioner and her minor child was deprived of food at her matrimonial house. Lastly, on 28.03.23 the O.P and his family members driven out the petitioner from her matrimonial house along with her minor child. The petitioner further states that she along with her minor child are living with extreme hardship at her father's place as the O.P is not paying any maintenance to the petitioner and her minor child. The petitioner states that O.P works as insurance agent and he has given his house on rent to Diagnostic center , he has clothes shop . Altogether he earns Rs. 1,10,000/- to 1,20,000/- ( Rupees one lac ten thousand to one lac twenty thousand ) per month .

The petitioner filed this case under section 125 of Cr.P.C. on 31.10.23 praying for maintenance amount of Rs. 20,000/- (rupees Twenty thousand)P/M for herself and amount of Rs.10,000/- (rupees ten thousand) P/M. for her minor child. Petitioner also filed this instant application for interim maintenance on the same date and prays for an amount of Rs. 20,000/- (rupees twenty thousand) P/M. for herself and amount of Rs.10,000/- (rupees ten thousand) P/M. for her minor 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 submits that the petitioner left her matrimonial home out of her own wish and will. He further stated that he is a day labour and he earns Rs. 4,000/- to 4,500/- ( rupees four thousand to four thousand five hundred only) per month . He also stated in his written objection that the petitioner engaged herself as private tutor and from where she earns Rs. 7,000/- to 8,000/- ( rupees seven thousand to eight thousand ) per month.

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.

In these circumstances in view of this court as the petitioner is legally married wife of the opposite party, and whether the petitioner left her matrimonial house voluntarily is a matter of trial and the same can not be decided without adducing evidence. On perusal of declaration of assets and liabilities submitted by both sides, and as per the petition it appears that the minor child is in the custody of the mother. There is no single document submitted by the O.P in respect of any maintenance provided to the petitioner and her minor daughter. Though the O.P claimed that petitioner is a private tutor and her monthly income is Rs. 7,000/- to 8,000/- ( rupees seven thousand to eight thousand ) per month. but no piece of paper has been submitted in support of the same, moreso, it is a matter of trial. Therefore, at this stage the petitioner is entitled to claim interim maintenance for her subsistence and for her minor child.

Now the question is in respect of quantum of the maintenance amount. The petitioner claims/prays for an amount of Rs. 20,000/- ( Rupees twenty thousand) per month for herself and Rs. 10,000/- ( rupees ten thousand) per month each for her minor child and the opposite party claims that he he is a day labour and he earns Rs. 4,000/- to 4,500/- ( rupees four thousand to four thousand five hundred only) per month and he denied to have the income as alleged by the petitioner in her petition. As per the judgment of the Hon'ble Apex Court husband cannot deny the maintenance to his legally married wife and minor children. In this particular case the petitioner at this stage could not prove the income of the opposite party is Rs. 1,10,000/- to 1,20,000/- ( Rupees one lac ten thousand to one lac twenty thousand ) per month as stated in the main application of maintenance in this case, and it is also not clear whether O.P is having income from the source of works as stated in the application of the petitioner 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. 1,000/- (rupees one thousand) per month to the petitioner and Rs. 1,000/- ( rupees one thousand ) per month for her minor child from the date of filing till disposal of the case.

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

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

Fix 16.01.25 for evidence.

**Dictated & Corrected by me,**

**Judicial Magistrate,  
3<sup>rd</sup> court Bishnupur, Bankura.**

**Judicial Magistrate,  
3<sup>rd</sup> court Bishnupur, Bankura.  
J.O.CODE WB01291**