

The Court of Judicial Magistrate, Gangarampur at Buniadpur, Dakshin Dinajpur
Present : Sagarika Khatun, Judicial Magistrate, Gangarampur at Buniadpur
JO Code : WB 01483

MR Case No. 61 of 2024

Mampi Mondal Saha vs. Nikhil Saha

Order Dated 18.04.2026

Today is fixed for passing of order for interim order u/s 125 of the Cr. P. C and the record is taken for the same.

This Court has heard submissions of Ld. Advocates of both sides and considered.

The petitioner files her Aadhaar card, Aadhaar card of her minor son and Birth certificate of her son.

The OP files photocopies of two letters, Doctors' prescriptions, photocopy of ex parte order u/s- 9 of the Hindu Marriage Act, 1955 vide order dated 17.12.2022 in Mat Suit No. 266 of 2016 and Legal Notice dated 09.05.2024.

Both of the petitioner and the OP have filed their respective Affidavits of Assets and Liabilities for Non-Agrarian Deponent.

Perused the respective pleadings of the parties and their Affidavits of Assets and Liabilities for Non-Agrarian Deponent.

The petitioner's case in brief is that the petitioner is legally married wife of the OP. Their marriage was solemnized on **15.12.2010** as per Hindu rites and custom. Out of their wedlock one male child namely **Dipayan Saha** was born on **05.02.2013**. Their male child is physically challenged and presently residing with the petitioner. At the time of marriage her parents gave Rs. 1,66,000/- in cash, gold ornaments, furniture, utensils and other valuable article as per demand of the OP. After marriage the petitioner went to her matrimonial house and started to reside there with the OP as husband and wife. During her stay with the OP in her matrimonial house she was subjected to physical and mental torture by the OP and his family member. The OP did not provide proper food or medical treatment for the petitioner herself as well as his minor child. The OP demanded further dowry of Rs. 50,000/- from parental house of the petitioner. Further more the OP demanded Rs. 1,00,000/- from her parental house for the purpose of treatment of her minor child as he being physically challenged boy. The OP threatened the petitioner to kill her and her minor son. The OP and his family member created pressure upon the petitioner and asked her to give divorce the OP. In the month of September, 2018 the OP and his family member drove her out from her matrimonial house along with her physically challenged minor child keeping all her stridhan articles with themselves. Brother of the petitioner took her to her parental home. Thereafter the OP filed a Mat case u/s- 9 of the Hindu Marriage Act and an ex parte order was passed in favour of the OP. Thereafter the OP sent a legal Notice to the petitioner. Then, on being assured by the OP the petitioner went to her matrimonial house and again started to reside together. But after some time the OP again started to torture the petitioner and lastly, in month of September, 2022 the OP drove out the petitioner from her matrimonial house. Since then the petitioner along with her physically challenged minor child has been residing separately from the OP. The petitioner has no source of income and unable to sustain herself along with her physically challenged son. On the other hand the OP is an able bodied person and he is a driver and has own house and landed property and in total he earns around Rs. 40,000/- to 50,000/- per month. The OP in spite of having sufficient means refused and neglected to maintain his wife and physically challenged minor son fully knowing that the petitioner is unable to maintain herself. The petitioner has claimed Rs. 10,000/- for herself and Rs. 8000/- for her physically challenged minor son as their monthly maintenance allowance from the OP.

Ld. Advocate has cited case Of Rina Kumari @ Rina Devi @ Reena versus Dinesh Kumar Mahto @ Dinesh Kumar Mahato and another...2025 INSC 55.

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On the other hand the OP has appeared in this case and filed written objection against the application for interim maintenance allowance.

Ld. Advocate for the OP has submitted that the OP admitted the petitioner as his legally married wife and they have one physically challenged minor son but denied all allegations in the petition praying for interim maintenance allowance. Ld. Advocate for the OP specifically has submitted that the petitioner does not want to reside with the OP and left her matrimonial house with her own wish. He also has submitted that the OP is a driver of private car and hardly earns around Rs. 6000/- per month therefrom. He also has submitted that the OP still now wants to lead conjugal life with the petitioner. Therefore, in above circumstances Ld. Advocate for the OP has prayed for rejecting the prayer of the petitioner for interim maintenance allowance.

At this stage while disposing of an application for interim maintenance allowance this Court is to consider the prima facie materials only. At this stage this Court is not suppose to consider the factual aspect which would be decided after the evidence is recorded.

In this instant case on perusal of the submissions of Ld. Advocates, documents, Affidavits of Assets and Liabilities this Court finds that it has been prima facie established that the petitioner is wife of the OP. The OP having sufficient means and knowing fully well that the Petitioner has no income of her own has refused and neglected to maintain the petitioner and her physically challenged minor son. This Court finds it is required to pass an interim order in favor of the Petitioner to pay interim maintenance for herself and her physically challenged minor son.

In the backdrop of the prevailing socio economic circumstances inflicted with inflationary proclivities in prices of the essential commodities and the status and necessities of the parties, the OP is directed to pay monthly allowance of interim maintenance amounting to **Rs. 1000/-** for the petitioner and further more **Rs. 2000/-** for her physically challenged minor son as their interim maintenance allowance. This Court is inclined to make this order effective from the date of filing of this case ie **05.06.2024** till the disposal of the case.

Hence, it is

ORDERED

that the application praying for interim relief u/s 125 of the Cr. P. C. be and the same is granted on contest without any order as to cost. The OP namely **Nikhil Saha** is hereby directed to pay monthly allowance of interim maintenance amounting **Rs. 1000/-** for the petitioner and further more of **Rs. 2000/-** for her physically challenged minor son. Accordingly, the OP is directed to pay cumulative amount of **Rs. 3000/-** to the petitioner namely **Mampi Mondal Saha** within 7th day of every succeeding month of English calendar. In default the petitioner shall be at liberty to take legal action as may be necessary for the recovery of arrears of monthly interim maintenance allowance. The order be effective from the date of filing of this case ie **05.06.2024** till the disposal of the case.

Provide a copy of this order to the petitioner free of cost.

Fix 30-06-2026 evidence. Update CIS.

Dictated & corrected

JM, Gangarampur at Buniadpur

Signature

JM, Gangarampur at Buniadpur