

Present: Tanmoy Roy
Additional Chief Judicial Magistrate, Kurseong, Darjeeling

MR Case 03/2024
CIS 03/2024
JO Code - WB01288

Babita Chhetri	Petitioner
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-VS-

Ghanashyam Chhetri	Opposite party (OP)
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Order dated : 28.10.2025

Today is fixed for order.

Both parties are present by filing hazira.

The prima-facie case of the petitioner as it appears from the petition is that petitioner got married with OP on 26.03.1997 as per Hindu rites and Nepali rituals. A male child namely Swarup Chhetri was born to them on 09.03.2001. It has been alleged by the petitioner that after birth of their child, the behavior of the OP has changed, the OP inflicted different mental and physical torture upon the petitioner. For betterment of the relation, the OP sent the petitioner to her sister's house in Mumbai but during their stay at Mumbai, the OP has filed an application u/s 156(3) of Cr.P.C. before the Ld. ACJM, Kurseong which was later registered as Misc. Case no. 14 of 2016 and thereafter, the complaint was registered as GR Cse no. 300(1) of 2016 against the petitioner and one Sushanta Kumar Pal and charge sheet was filed against them, later they were discharged/ acquitted from the case by the Ld. ACJM, Kurseong. The OP during the pendency of GR Case, Matrimonial Suit was filed before Ld. ADJ, Kurseong and on appearing in the same case the petitioner filed an application u/s 24 HMA for alimony *pendente lite* which was allowed by the Ld. Court and passed alimony of Rs.30,000/-. Against the said order, OP made an appeal before the Hon'ble High Court, the Hon'ble Court was pleased to modify the said amount to Rs.20,000/- as alimony per month. She further mentioned that she has no source of income. The OP being contractor earns more than Rs.2,00,000/- per month. In this circumstances, petitioner has prayed for an interim order of maintenance to the tune of Rs.40,000 for herself.

OPs in this case has appeared and filed WO. OP in his WO mentioned that he denied all the material allegations against him. Furthermore, OP contended that in four times petitioner got involved in illicit relation in the year 2005, 2007, 2011 and 2014 with different persons. During the illicit relations, the petitioner had gone to different location without informing the OP or his family. OP further contended that during stay of the petitioner, the petitioner did not bother about her responsibilities towards her child as well as her family. During the illicit relationship, OP has gone through mental agony and to solve the issues, OP

met with the families of the persons who were got involved illegally with his wife and after prolong discussion, all the relations were came to an end. OP mentioned that the petitioner already receives an amount of Rs.6,65,000/- as per the direction of the Matrimonial Court and she is not at all entitled to receive Rs.40000/- per month as alimony from this case, moreover, the petitioner also have two vehicles wherefrom she receives a handsome income. OP with this submission has prayed for rejection of the prayer of interim maintenance and other relief sought for.

Heard the submissions of both sides.

It is important to note here that at the time of hearing Ld. Advocate of the petitioner on being asked admitted that at present the child of the petitioner is not staying with her. Ld. Advocate of the OP submitted that petitioner willingly left the child and staying apart from them.

From the submissions of Ld. Advocate and from the materials on record, it appears that petitioner in Matrimonial Suit has received Rs.6,65,000/- from the OP but petitioner in her Asset Declaration did not mentioned about the same neither she had given any details of such amount i.e. how petitioner has spend such sum. Furthermore, no documents has been submitted from the end of the petitioner to show that OP has been earning Rs.2 Lakh per month as mentioned by her. OP has alleged that petitioner has affair with several other men and at the time of hearing to substantiate his allegations, he also submitted call detail records of the petitioner. Furthermore, OP has alleged that petitioner recently has married to one Rabi Karki and presently residing with him. In support of his contention OP has submitted a letter of councilor, from which it appears that it is mentioned therein that the petitioner is living with one Rabi Karki in Rajib Nagar. The letter of councilor is a subject matter to be proved before this Court. It is admittedly found that petitioner is not living with her son and also it came into the knowledge of this Court that petitioner has Rs.6,65,000/- from the OP. At this stage, considering all the above-mentioned facts and circumstances I do not find any urgency to order for an interim maintenance in favour of the petitioner without trial.

Hence, it is

O R D E R E D

that the prayer of interim maintenance petition in favour of the petitioner at this stage stands rejected on contest.

Both the parties are directed to be ready for expeditious trial of this case.

No Adjournments on pity grounds shall be entertained by this Court at any cost.

To **12.11.2025** for evidence.

Dictated & corrected by me,

Tanmoy Roy
ACJM, Kurseong