IN THE COURT OF JUDICIAL MAGISTRATE, HALDIA, PURBA MEDINIPUR

Present : Kaustabh Bandyapadhyay,
(J.O. Code no.WB01463)
Judicial Magistrate, Haldia.

Misc. Case No.287/2024, CIS No.287/2024, TR No.112/2024

CNR No.WBEM08-003086-2024

Pinki Jana Maity *vs.* Manishankar Maity

.....Petitioner .....OP

Under Section 125 of the Code of Criminal Procedure
Date of Delivery of Judgment :- 06.08.2026

JUDGMENT

Justice Krishna Iyer in his judgment in ***Captain Ramesh Chander Kaushal v Mrs. Veena Kaushal & Ors., (1978) 4 SCC 70*** *held that the object of maintenance laws is : "This provision is a measure of social justice and specially enacted to protect women, children & aged parents and falls within the constitutional sweep of Article 15(3) reinforced by Article 39. We have no doubt that sections of statutes calling for construction by Courts are not petrified print but vibrant words with social functions to fulfill. The brooding presence of the constitutional empathy for the weaker sections like women, children & aged parents must inform interpretation if it has to have social relevance. So viewed, it is possible to be selective in picking out that interpretation out of two* ***alternatives which advances the cause — the cause of the derelicts****."*

Factual Outline :-

- This is an application under section 125 of Code of Criminal Procedure, 1973 (***Hereinafter mentioned as*** **CrPC**) filed by the petitioner namely Pinki Jana Maity on 08/10/2024. The applicant, being destitute wife, has filed the instant petition seeking maintenance for her & her minor son at the tune of Rs.6,000/- & 4,000/- respectively i.e., in total Rs.10,000/- per month against the opposite party i.e., her husband.

- Petitioner narrated the true facts during her examination-in-chief dated 29.01.2026 viz., 'I got married with the OP in 2015 as per Hindu rites and ceremonies at my father's house. At the time of marriage, 60,000/- cash money, gold ornaments and dowry articles were given as per dowry demand of bride groom side. After marriage, I went to my matrimonial home. After two years of happy marital life, I was subjected to physical as well as mental torture by my husband and in-laws on demand of further dowry which my father failed to fulfill. On 15.03.2023 I was ousted from my matrimonial house after torturing me as my father failed to give Rs.60,000/-. I gave birth to a son out of the wedlock who is nine years old right now. I took shelter at my father's house. My husband does not ask for the whereabouts of me and my son. My family members tried to mitigate the matter but my husband & in-laws did not pay heed.'

- ***Now, let us throw some light upon the contentions of the OP*** :-

✔ The OP filed written statement on 20.05.2025 and denied material allegations against him. OP contended that petitioner tortured him mentally during marriage subsisted and she obtained ex-parte decree of divorce tactfully from the Court of Ld.ADJ, Contai.

✔ Ld.Advocate for the OP cross-examined petitioner thoroughly on 29.01.2026 & 06.05.2026 in the following manner, 'It is not a fact that I deposed at Contai Court on previous occasion. It is not a fact that I have falsely stated, 'I got married with the OP in 2015 as per Hindu rites and ceremonies at my father's house. At the time of marriage, 60,000/- cash money, gold ornaments and dowry articles were given as per dowry demand of bride groom side. After marriage, I went to my matrimonial home. After two years of happy marital life, I was subjected to physical as well as mental torture by my husband and in-laws on demand of further dowry which my father failed to fulfill. On 15.03.2023 I was ousted from my matrimonial house after torturing me as my father failed to give Rs.60,000/-. I gave birth to a son out of the wedlock who is nine years old right now. I took shelter at my father's house. My husband does not ask for the whereabouts of me and my son. My family members tried to mitigate the matter but my husband & in-laws did not pay heed. I have gone through the written statement filed by my husband. The allegations of my husband against me in his written statement are false & baseless. It is not true that I am self sufficient and earn Rs.50,000/- per month. My husband is a painter and and his total monthly income is about Rs.30,000/-. I have no independent source of income.' It is fact that I did not conceal any material fact in the written examination-in-chief. It is not a fact that the OP is not my husband any more. ***It is fact that our marriage has been dissolved***

vide Order dated 13.08.2024 of the Ld.ADJ, 2nd Court, Contai. My father's house is in Saibari village. I have not concealed any material fact. It is fact that in divorce case I mentioned present address as D/o Sahadeb Jana, vill.-Porachingra, P.S-Bhupatinagar. It is fact that Sahadeb Jana is my father and his house is at Sainbari. It is not a fact that I have been staying with Nabab Giri, S/o Haradhan Giri of Porachingra as husband-wife and before divorce I married him. It is fact that after divorce I filed the instant case for maintenance. It is not a fact that I have falsely stated that I was late in filing the instant case as the OP promised to take me & my son back. It is not a fact that I am not entitled to get maintenance as my prayer is based on false story. It is fact that in spite of divorced from OP, I filed this case. It is not a fact that I have remarried Nabab Giri. ***Then says, the OP has remarried.*** It is not a fact that I left OP on my own wish and started staying with Nabab Giri. It is not a fact that I mentioned wrong address in divorce case at Contai. ***Then says, Ld.Advocate drafted the address wrong.*** I applied for rectification of the address. I have no document to show the same. I have documents in support of proof of alleged dowry articles. I can submit the same. These are the said cash memos. **Let the case memos be marked as Exhibit A collectively.** It is fact that in 2013, 2016, 2018, 2024 the cash memos were prepared and I got married in 2015. It is not a fact that I have manufactured these cash memos for the purpose of this case. It is fact that these cash memos are in the name of my father Sahadeb Jana. It is fact that there is no seal or stamp. It is not a fact that these documents do not support my contention that these ornaments were given to me. It is not a fact that in spite of being remarried, I have filed this case only to extort money from my erstwhile husband i.e., the OP. I will not give custody of my son to the OP. It is not a fact that I have falsely stated about monthly income of OP. It is not a fact that monthly income of OP is Rs.3000-4000/- working as day labour. It is not a fact that OP's parents are dependent upon him. Certified copies of documents of divorce case being Mat Suit No.626 of 2023 before the Court of Ld.ADJ, 1st Court, Contai are shown to the witness which are identified & admitted. **Let the certified copies of documents of divorce case being Mat Suit No.626 of 2023 before the Court of Ld.ADJ, 1st Court, Contai be marked as Exhibit B collectively.** It is not a fact that being wife of Nabab Giri, I am not entitled to get maintenance from the OP. It is not a fact that I have forcefully taken custody of my son from his father. It is not a fact that I have falsely stated, '*At the time of marriage, 60,000/- cash money, gold ornaments and dowry articles were given as per dowry demand of bride groom side. After marriage, I went to my matrimonial home. After two years of happy marital life, I was subjected to physical as well as mental torture by my husband and in-laws on demand of further dowry which my father failed to fulfill. On 15.03.2023 I was ousted from my matrimonial house after torturing me as my father failed to give Rs.60,000/-. I took shelter*

at my father's house. My husband does not ask for the whereabouts of me and my son. My family members tried to mitigate the matter but my husband & in-laws did not pay heed. The allegations of my husband against me in his written statement are false & baseless. My husband is a painter and and his total monthly income is about Rs.30,000/-. I have no independent source of income.' It is not a fact that I filed divorce case before filing maintenance case only to get married to Nabab Giri. It is not a fact that as I left willingly with Nabab Giri, I did not file any case under Section 498A IPC/85 BNS or under DV Act. It is not a fact that I have deposed falsely.'

EVIDENCE ON RECORD :-

- In order to prove her case the petitioner has adduced following ocular witnesses :-

1. PW1	The petitioner i.e., Pinki Jana Maity.

- Marriage certificate has been marked as Exhibit 1.
- No OPW was adduced.
- In order to prove his case the OP has adduced following documents :-

Exhibit A collectively Exhibit B collectively	Cash memo(s) Certified copies of documents of divorce case being Mat Suit No.626 of 2023 before the Court of Ld.ADJ, 1st Court, Contai

POINTS FOR CONSIDERATION

1. *Is the petitioner married wife of the OP ?*
2. *Whether the opposite party has neglected or refused to maintain the petitioner willingly ?*
3. *Whether the opposite party has sufficient means to maintain the petitioner ?*
4. *Whether the petitioner is unable to maintain herself ?*
5. *Whether the petitioner is entitled to get maintenance from the opposite party ?*

DECISION WITH REASONS

For the sake of convenience of discussion and as all the points are co-related, all the points are taken up together for easy delineation and analysis so as to come to a reasonable culmination in respect of the feud between the parties to this case as has unfurled from the petition.

On perusal of the entire case record it appears that the following matters are admitted.

a) that the petitioner is the married wife of OP.

b) that the petitioner and OP have a minor son.

Let us appretiate the ocular evidence brought on record along with the affidavits of assets & liabilities filed by the adversaries :-

1. From the cross-examination of PW1 it appears that OP has admitted the matter of ex-parte decree of divorce but did not bring on record anything to suggest that he tried to reconcile and rejuvinate marital relation with the petitioner. OP did not challenge the ex-parte decree of divorce. In cross-examination the defence grilled the petitioner on ground that she has remarried another man and as such she is not entitled to get maintenance. But OP did not adduce any cogent evidence to prove that point and also failed to shake version of PW1 denying such allegation. There is no whisper to address that OP tried to maintain his wife and minor son. It is impliedly established that he willingly neglected them.
2. Now, like all other maintenance litigations, in this case also OP has claimed himself to be a day labour. OP agitated that petitioner is independent and earns but did not prove the same either by ocular or by documentary evidence. So, it is also established that petitioner is unable to maintain herself.
3. Now, OP nowhere denied that he is not an able bodied man and cannot earn. So, he cannot escape his liability to maintain his wife & son.
4. On the other hand, petitioner also did not produce any cogent evidence to establish that her husband (OP) is a painter and earns Rs.30,000/- per month.
5. Both sides in their affidavits for assets and liabilities have admitted that they got separated on 15.03.2023. Petitioner filed this case on 08.10.2024 i.e., after more than one year. There is no legitimate explanation how she maintained herself and son during that period.
6. In her affidavit of assets & liabilities petitioner did not mention her educational qualifications. Per contra, OP has mentioned in the same his qualification to be Class VIII pass.
7. In his assets, OP has declared his monthly income as Rs.3,000/-.

8. In the record, there is no whisper that OP cannot earn more due to his physical condition or otherwise and on the same footing, petitioner has suppressed her educational qualification and has not made it clear why she cannot maintain herself, save & except being maintained by her husband.

9. On appreciation of total evidence it is my reasoned opinion that the adversaries are staying separate from each by virtue of an ex-parte decree of divorce. She has not also clearly established the monthly income of OP.

10. The marriage & paternity of minor son are admitted.

11. In **Chaturbhuj v Sitabai** it was held that, the object of maintenance proceedings is not to punish a person for his past neglect, but to prevent vagrancy and destitution of a deserted wife by providing her food, clothing and shelter by a speedy remedy. Section 125 of the Cr.P.C. is a measure of social justice especially enacted to protect women and children, and falls within the constitutional sweep of Article 15(3), reinforced by Article 39 of the Constitution.

12. In recent landmark judgment of **Rejnesh vs. Neha & Anr. (2021) SCC 324** , the Hon'ble Supreme Court of India has laid down certain criteria for determining quantum of maintenance. The same are considered here.

13. **In the result**, in view of the delineation made above, it is my reasoned observation that, the application under section 125 CrPC as filed by the petitioner should be allowed with minimum amount to allow petitioner to maintain herself & her minor son, as the very purpose of this law/section is to prevent starvation & vagrancy..

14. This Court feels it sufficient for the petitioner and will not be unjustified on the part of the OP if the maintenance is granted to the petitioner at the tune of Rs. **5,000**/- per month but for the petitioner & her minor son @ Rs.3,000/- & Rs.2,000/- respectively.

15. **This Court is also of view that granting maintenance from the date of filing of this application for the petitioner will be a great hardship to the OP**.

Hence, it is

O R D E R E D

that the application under section 125 CrPC is considered and **allowed on contest** in part, without any order as to cost.

The petitioner (*wife*) is entitled to get an amount of Rs **5,000**/- (Rupees Three Thousand only) **per month** [Rs.3,000/- for petitioner & Rs.2,000/- for minor son, until attaining majority] as maintenance allowance from the opposite party (***the husband***) ***from the date of passing of this Order***.

The OP is directed to pay Rs **5,000**/- per month to the petitioner from the date of passing of this order as maintenance allowance. Such amount of maintenance shall be paid by the OP to the petitioner within first 10 days of every month, failing which the petitioner would be at liberty to execute the order so passed.

Let a free copy of the order and this judgment be given to the petitioner wife.

Thus the instant case is disposed of on contest.

Note in proper register & upload in CIS.

Dictated and corrected by me:

Sd/-K.Bandyapadhyay
Judicial Magistrate,
1st Class, Haldia.
06.08.2026

Sd/-K.Bandyapadhyay
Judicial Magistrate,
1st Class, Haldia.
06.08.2026

Contd.....