

Misc case No. 137 of 2023

Order dated 01.09.2025

Today is fixed for passing order in respect of petition filed by the petitioner u/S 125 Cr.P.C.

Both parties filed hazira through their Ld. Advocates.

Heard the submissions of Ld. Advocates and considered their assets and liabilities filed by both the parties.

The brief fact of the petition is that the petitioner is the legally married wife of the O.P, having their marriage solemnized on 17.10.2019 according to Hindu Rites and Customs. After her marriage she started residing at her matrimonial house at Hanskhali Pole, Sankrail, Howrah. Out of their wedlock one daughter was born. Since after the marriage, the opposite party started torture upon the petitioner both physically and mentally but being helpless she had to bother all such torture as to sustain the marital tie. Day by day the intensity of torture was increased by the opposite party and the petitioner was unable to maintain her. The OP / husband totally neglected her and was not providing a single farthing to to her. The petitioner was not provided with proper food, clothing and medicine by her husband. Lastly on 15.01.2023 the petitioner was driven out from her matrimonial home and since then she is passing her days under misery at her paternal home. Since then opposite party did not take any news of the petitioner nor the minor child and is not providing any maintenance towards them.

The petitioner stated that the OP / husband is an able bodied perchilds and earns Rs. 30000/- per month from various business.

The petitioner prays before this Court for maintenance of Rs.10000/- per month as interim for herself and her child. i.e. Rs. 7000/- per month for minor child and Rs.3000/- per month for the petitioner till disposal of this case.

The O.P appeared on 24.11.2012 and filed written objection against the instant petition and denied all the averments made by the petitioner and also stated that this application is neither maintainable in-law nor on facts of this case. The application filed by the petitioner is misconceived, harassing, malafide, vexatious and is not maintainable in law. The OP also stated that the said application suffers from suppression of material facts and the allegations made in each and every paragraph is misleading the Court and liable to be dismissed. The OP stated that some contents of the said application are admissible and the rest portion of the contents are denied by the OP. It is a fact that they became known to each other in a social media and thereafter it turns to a social relationship by way of marriage. The OP stated that he loves the petitioner and fulfill her

demand as per his capacity. Even her father-in-law loves her like his own daughter and fulfill all her demands. He also states that the petitioner always tried to live separately. She has no respect, care and regards towards her husband and in-laws and she often goes to here and there and has an irregular lifestyle. Petitioner is always raising her financial demand upon the OP illogically. The OP stated that on 15.01.2023 petitioner left her matrimonial home voluntarily along with her stridhan articles.

The OP stated that he is a plumber and earns Rs.7000/- per month and he has his senior citizen father to look after.

Considered the facts and circumstances of the instant case and perused the petition, written objection and all the other materials on record. There is no denying of the fact that the petitioner is the legally married wife of the O.P. and they have their minor child. The petitioner raised allegations against the O.P regarding her ill-treatment by the O.P and further stated that due to such physical and mental torture upon the petitioner. The petitioner was not provided proper food or took any care by the OP and his family members. At this stage, the petitioner has prima facie established that she is living separately from the OP with her minor child. The petitioner stated that she has no independent source of income whereas the O.P earns Rs.30000/- per month from various business but she did not say the nature of business. Both the parties have filed affidavit of assets and liabilities and I have duly considered the same. In the assets and liabilities of the petitioner the petitioner stated that the OP earns Rs.30000/- per month and she has no income and in the assets and liabilities of OP himself stated that he earns only Rs.7000/- per month as a plumber. Both these assets and liabilities has come before this Court by way of affidavit and at this stage of interim hearing it cannot be ascertained as to what is the exact quantum of income of both the parties. But prima facie it appears that the petitioner is the legally married wife of the O.P and he himself stated that he earns Rs.7000/- per month and he is also legally bound to maintain the petitioner and their child. It is noteworthy to mention here that the petitioner mentioned in her assets and liabilities that their status is of lower middle class. So after considering all the factual aspects and documents filed in this case, this Court is of the opinion that the O.P should pay monthly interim maintenance to the petitioner for prevention of vagrancy and destitution as the provision u/S 125 Cr.P.C. is a beneficial legislation.

After considering all the factual aspects and documents filed in this case, this Court is of the opinion that the O.P should pay monthly maintenance to the petitioner and her minor child.

Hence, it is,

Ordered

That the opposite party is hereby directed to pay the petitioner monthly interim maintenance of Rs.2,000/- per month for herself and Rs.3000/- per month for her minor child (in total Rs.5000/- per month) from the date of filing and he is further directed to pay the monthly monetary allowance by 10th day of each succeeding English calendar month.

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

To 07.02.2026 for evidence.

D/C

Judicial Magistrate 4th Court, Howrah.