



Misc CrI Case No.285/2025
Sujata Jha (Petitioner)
- vs -

Chandan Kumar Jha(Opposite party/Respondent)

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Present:- Sri. Gairik Roy,
Chief Judicial Magistrate, Howrah
JO Code:-WB01022

Order dated: 20.11.2025:-

The parties have been properly represented by their respective learned lawyers. As stipulated by the previous order today is fixed for passing of order. On call learned lawyers for both the parties are found to be present. Hence, the record is taken up for passing of order today.

This case is an example of typical human sentiments and how people drift away. Despite completion of almost two and half decade from the date of solemnization of the marriage and having a male child who has already attained his majority, neither the time and the expansion of family, nor the concern for the progeny could cement the bond or weld the affinity between the petitioner/wife and the opposite party/husband and the wife claiming herself to be at the verge of dystopia has been compelled to set the criminal law in motion. By instituting this present case she has beseeched this Court to delve and decide the question regarding grant of interim maintenance under Section 144 of **Bhartiya Nagrik Suraksa Sanhita, 2023** in her favour from the opposite party/husband. If this was not unfortunate enough; then adding to the misery, the parties have indulged in making caustic assertions as regards each others position in social life.

The petition praying for interim maintenance is under adjudication in this order. In order to efficiently slay this controversy it is predominantly necessary that the chronicles of this case is epitomized. From the petition, written objection and the affidavit which have been expounded in this case it is limpid that the petitioner is the legally married wife of the opposite party and their marriage was solemnized in the year 01/03/2000 as per Hindu rites and rituals at Saharsha Bihar and their marriage was a negotiated one and in the wedlock the petitioner was blessed with a son named Abhinav Jha, on 19.10.2003.

It has been pleaded in the petition the matrimonial discords between the parties in a manner that the indifference of the opposite party could be understood from the fact that he did not bother even to take knowledge of the well being of the petitioner and her son and there was complete neglect on his part. It is stated that the petitioner's parents took care of the petitioner and her son and all the medical expenses were borne by them and inspite of such attitude and behavior of the opposite party, yet with a hope that good sense will prevail, your petitioner along with his son stayed with the opposite party at his further posting at Firozpur, Punjab from the 2004 to 2010.



The Opposite party thereafter was transferred to Rongra, Meghalaya and in 2010, the petitioner along with her child came to her in-law's house at Dhanbad, with a hope that the situation will normalize. The opposite party once or twice in a year for 10 to 15 days would come to Dhanbad and with the passage of time his attitude and behavior also worsened. There was a complete neglect by the Opposite Party towards the petitioner as well as his son as such the petitioner and her son was fully dependent upon her in-laws for their survival. The petitioner's in-law's instead of having pity upon her daughter-in-law and grandson made her butt of their ridicule.

It is worthwhile to mention that the petitioner's in-laws hand in glove along with the opposite party deliberately and purposely created such a situation that the petitioner was compelled to leave their house for survival of her minor son and herself sometime in the February 2015, your petitioner along with her son came to her parents' house and sought shelter and since then the petitioner is staying at her parents' house in Liluah, Howrah. The petitioner made several attempts to contact and communicate with her husband to reconcile the difference for a better future of their son but all her attempts were in vain. The opposite party never paid any heed to the request of the helpless petitioner. The opposite party did not made any endeavor to take petitioner and their son with him or take care of their basic needs and requirement. There was complete negligence on the part of the opposite party to look after the maintenance and basis requirements of the petitioner and their son. The opposite party has miserably failed to discharge his role of husband as well as father.

That the petitioner all along hoped that the good sense would prevail and sooner or later the opposite party would realize his mistake and would take care of his family i.e. the petitioner and her son but the act and conduct of the opposite party clearly indicates that there has been complete negligence upon the petitioner.

Realistically speaking the petitioner in her main petition as well as in the petition seeking interim maintenance has attributed the allegations of wanton neglect and persistent cruelty against the opposite party in so many words. In resonance to the facts advertised in the petition the petitioner has prayed for **Rs. 70,000/-(Seventy thousand) per month for herself** as interim maintenance from the opposite party.

After filing of this case; in order to exhaust the canons of natural justice, summon was sent to the opposite party and the opposite party has appeared in this case and has contested the claim of the petitioner by filing his written objection. The opposite party in the written objection has admitted the petitioner to be his legally married wife and the paternity of child has also been avowed by the opposite party. However the opposite party has taken a specific stand that the petitioner is not entitled to get any relief out of this case as the case is not maintainable in law and facts. It has been contended by the



opposite party that the petitioner has deserted the opposite party since the year 2015 and is residing in the house of her father out of her own freewill. The opposite party has categorically contended that the opposite party has never neglected the petitioner. The opposite party has also pleaded that out of love and affection for his wife the opposite party has purchased bonds of Sahara Golden in the name of the petitioner to the tune of Rs.3,08,000/- and the maturity amount is Rs.20,14,320 and the date of maturity is 31/12/2026.

it has been further added by the opposite party in his written objection that the claim of the Petitioner for Rs.70,000/- as interim maintenance is extortionary, unreasonable, unjust and highly exorbitant. Being a salaried employee in the Intelligence Bureau, his take-home salary is substantially reduced after statutory deductions. He further added that the Opposite Party is presently posted at Delhi, where he resides in rented accommodation and pays monthly rent, along with electricity, water, and other utility charges. The cost of living in a metropolitan city like Delhi is substantially high. Besides he has to incur substantial amount on his own medical expenses as he is a heart patient and chronic diabetic requiring regular treatment. The Opposite Party has no other source of income apart from his monthly salary.

It has been further contended that the Opposite Party's father purchased a commercial shop being Shop No. 11, measuring approx. 200 sq. ft. on the ground floor of "City Plaza," Dhanbad, in 2012, which was registered in the petitioner's name after making full payment of 24,00,000/- by cheque (No. 162022 dated 24.12.2012). The said shop has been let out to Reliance Digital Corporation since 2013, and the Petitioner has been receiving monthly rental income, which has now increased to ₹25,000/-. The claim of the Petitioner as mentioned in the affidavit of Assets and Liabilities submitted by the petitioner, that the said property's consideration price was paid by the father and brothers including the family members of the petitioner is absolutely false, as the same was paid solely by the father of the opposite party. Moreover, the Petitioner is also running her own beauty parlour business VI How under the name and style of "Pink Beauty Parlour" at Liluah, Howrah, from which she earns substantial income.

Pinning reliance on this point, the opposite party has mentioned in his written objection that the petitioner has always been properly maintained by the opposite party and in all time the opposite party provided all possible care and maintenance to the petitioner. It as also been averred that the petitioner out of her own free will deserted the opposite party and stayed away from the opposite party though the opposite party has tried to take back the petitioner. Pinning reliance on this facet; the opposite party has pleaded that the opposite party has renounced the company of the opposite party and hence she is not entitled to get any maintenance from the opposite party. All the allegations of torture as ventilated by the petitioner in her petition has been categorically denied by the opposite party in his written objection. Based on this contention



the opposite party has prayed for refusal of the petitioner's claim of interim maintenance.

On the date fixed for hearing Ld. Lawyers for both sides were heard in full on the legality and validity of the petitioner's claim of interim maintenance. Ld lawyer for the petitioner on the date of hearing submitted that the petitioner is passing her days in great hardship and if the prayer for interim maintenance is not allowed, in that event the very existence of the petitioner will be put to peril. It was further argued that due to absence of adequate income, the petitioner is not able to maintain herself. It has been further submitted by the ld lawyer for the petitioner that in this case the petitioner has been admitted to be the wife of the opposite party and that being the case the opposite party is duty bound to maintain the petitioner and the petitioner must get the interim maintenance as prayed for.

Refuting the version of his counter part the ld lawyer for the opposite party submitted that the petitioner has never been neglected by the opposite party and through out the time the opposite party has invested substantial amount in the name of the petitioner. Relying on the documents filed by the opposite party; it was argued that there is no urgency on the part of the petitioner and hence the prayer is required to be rejected. It was further argued that the petitioner was never subjected to any cruelty by the opposite party or his family members and the entire allegations ventilated in the petition are false and frivolous. It was also vehemently argued by the ld lawyer for the opposite party that the petitioner is not staying with the opposite party out of her own whims and caprice since the year 2015 and there is no point in allowing the prayer of the petitioner who by herself has renounced the company of her husband. The learned lawyer for the opposite party lay much emphasis on Section 144 sub-section (4) of **Bhartiya Nagrik Suraksa Sanhita, 2023** and argued that the petitioner is not entitled get any maintenance as the petitioner has deserted his client. Taking one step further; the learned lawyer for the opposite party has contended that his client is in fact the victim as he suffered mental and physical torture at the hands of the petitioner. Ld lawyer for the opposite party further submitted that the petitioner is exploiting the opposite and her prayer ought to be rejected by this court.

As a repartee of the above submission; the learned lawyer for the petitioner argued that the opposite party has never denied that he is able bodied and hence the opposite party cannot evade his responsibility from maintaining his wife . Relying on this arguments the learned lawyer for the petitioner submitted that the opposite party cannot evade his responsibility by citing the alleged loan/deductions/expenditures and other liabilities, as mentioned in his affidavit and written objection.

At the very outset I must hasten to articulate that in this case both parties have made allegations and counter allegations against each other in



their respective pleadings, veracity of which can only be established after conclusion of trial by appreciating evidences. This conclusion of mine is fortified by the observation of the Hon'ble High Court in ***C.R.R. 780 of 2019 Rajendra Kuchlyan -Versus- Jhuma Kuchlyan dated 05-07-2019***. The observation of the Hon'ble High Court runs in the following lines:

“In view of settled principle of law, at the time of deciding an application for interim maintenance the Magistrate should not delve deep into the disputed question of facts. The plea as taken by the husband cannot be decided without delving into the facts. Both the parties deserve opportunities to adduce evidence in support of their respective contentions at the time of final hearing of the application under Section 125 of the Code of Criminal Procedure. If any conclusion is drawn at this stage, then the interest of either party may be prejudiced.”

The Hon'ble High Court in New Delhi has held to the same effect in ***Criminal Revision Petition No. 103/2015 Manju Sharma versus Vipin***. Thus it can be said without any doubt that at the stage of assessment of interim maintenance, court has to only form a prima facie opinion and the only point which requires determination at this stage is that whether the petitioner has put up a prima facie case in support of her contention and whether she has made out a good case to go for trial. Thus, my evaluation process should be stipulated to the domain specified above. The allegations of desertion cannot have any bearing at this stage and that can only be acted upon after evaluation of the evidences lead by the parties to this case.

With this objectivity in mind lets now introspect the rival facts. In this case the opposite party has filed his written objection affidavit of assets and liabilities and from the contents of the said written objection and affidavit it is axiomatic that the petitioner is the legally married wife of the petitioner. Now question germane for consideration is; whether the petitioner is entitled to get the interim maintenance as claimed by her or not on the grounds manifested by her. There is no obscurity on the point that this court is perfectly authorized to grant interim maintenance if the other attending circumstances supports the case of the petitioner and it is the duty of this court to hoist the motto of this beneficial legislation. It is also evident that while deciding the question of payment of interim maintenance to a wife where relationship is admitted, this court is only expected to form a prima facie opinion as to the legality and validity of the petitioner's claim. If the argument of the Id lawyer for the opposite party that the petitioner has willfully deserted the house of the opposite party has to be accepted then it is only after the entire evidence is led that an order for interim maintenance can be passed. That would defeat the very purpose of providing for payment of interim maintenance in Section 144 of ***Bhartiya Nagrik Suraksa Sanhita, 2023*** and hence the argument is required to be discarded at this stage.



In *Sunita Kachwaha & Ors. Versus Anil Kachwaha, AIR 2015 SC 554* it has been held as follows:

“8. The proceeding under Section 125 Cr.P.C. is summary in nature. In a proceeding under Section 125 Cr.P.C., it is not necessary for the court to ascertain as to who was in wrong and the minute details of the matrimonial dispute between the husband and wife need not be gone into. While so, the High Court was not right in going into the intricacies of dispute between the appellant-wife and the respondent and observing that the appellant-wife on her own left the matrimonial house and therefore she was not entitled to maintenance.”

Therefore, the much argued point of the opposite party merits no consideration at this stage. This *lis* being at its threshold; I am not going to engage myself into a facts finding enquiry as regards the allegations of cruelty and who was wrong and who was right in the relationship which has eventually ended up in court. [*Mustafa Shamsuddin Shaikh vs. Shamshad Begum Mustafa Shaikh & Ors., as reported in 1991 CRI. L. J. 1932*] The prima facie, factors support the contention of the petitioner and at this stage that would suffice the cause for the petitioner.

At this stage another piquant question raised by the opposite party in his written objection, needs to be addressed. Ld lawyer for the opposite party during the course of his submission has submitted that the opposite party has invested money in the name of the petitioner at “Sahara Golden” whose maturity value on 31/12/2026 is **Rs. 20,14,320/- (Twenty Lakhs Fourteen Thousand and three twenty)** and hence there has been no neglect on his part. As a matter of fact the opposite party has produced the copy of the said certificates. But this fact alone cannot brush aside the duty of the opposite party to pay future maintenance to his wife as the maturity date of the said certificate is 31.12.2026 and we are standing in the month of November 2025. This court is dreading to think what will be the condition of the petitioner if she is denied interim maintenance on this ground. Hence this point cannot be considered to negate the prayer of the petitioner.

Another point argued on behalf of the opposite party was his insufficiency of income and having several liabilities. Accepting without conceding that the opposite party has several liabilities and deductions of salary, own expenses (as contended by him), but that does not absolve him of the responsibility to maintain his wife and the law on this score has been clinched by now by the pronouncement of the Hon'ble High Court in *Saili Halder vs Debaprasad Halder And other reported in 2005 (3) CHN 87*. It is an admitted proposition that the opposite party is an able bodied person and a government employee, thus he cannot evade his responsibility manifesting the ground that he has inadequate means to maintain himself.



Now the question germane for consideration is what should be the amount of maintenance. The legislative edict behind section 144 **Bhartiya Nagrik Suraksa Sanhita, 2023** is not to penalize a person for his past neglect, but to prevent vagrancy in future of those who passes their days in penury, by compelling those who are obligated to look after and maintain them by catering to their requirement commensurate with the standard of living which is neither luxurious nor penurious but is modestly consistent with the status of the family. However no arithmetic formula can be adopted as there cannot be mathematical exactitude. Each case depends upon its own facts; and it must be said that the Section is not a code of rigid and inflexible rules, arbitrarily ordained to be blindly obeyed; it does not enact any mathematical formulae; it gives wide power, flexible and elastic to do justice in a given case and leaves everything to the Judge's discretion. This Court is duty bound to take a just view of the matter and to see that it does not rehabilitate a party at the cost of the other and leaving the other side destitute. One thing however is clear in this case, the opposite party being an able bodied and salaried person working under central government of India and being the husband of the petitioner is bound both socially and legally to maintain his legally married wife.

In this case neither the opposite party has brought anything on record to *prima facie* satisfy this Court that he does not have the income as pleaded by the petitioner, rather he has proved his actual income by providing his monthly pay slips along with his written objection for the month of July, 2025 to September, 2025 having **gross salary of Rs.1,97,915/- and net salary of Rs.1,54,485/-**. Moreover this is a question which is needed to be proved at the stage of trial after taking evidence and not at this stage. Only evidence can illumine this court on the point of the true income of the parties, which is available in the record. On the other hand the opposite party tried to impress that the petitioner has sufficient income from rented shop and beauty parlour but to refute the said submission of the opposite party the petitioner has furnished the entire bank account statement to prove the admitted fact that she earned money from the rented shop till 31.03.2024 and presently she has no earnings. The affidavit of assets and liabilities also proves the said fact.

In this case it is axiomatic that the opposite party is an able bodied person and can work and earn his living. The reference to the cases reported in ***Bhuvan Mohan Singh vs. Meeta reported in AIR 2014 SC 2875*** and in the case between ***Shamima Farooqui Vs. Shahid Khan reported in AIR 2015 SC 2025*** is material at this stage, which confirms that irrespective of ability of a wife to earn something, it is the duty of the husband to maintain his wife. Maintenance cannot be defeated on pleas that husband does not have means to pay, for he does not have a job or his business is not doing well. If husband is healthy, able bodied and is in a position to support himself, he is under legal obligation to support his wife. The duty to provide maintenance has to be fulfilled even



by earning money by physical labour. In the present case the opposite party is a central government employee having a handsome income of **gross salary of Rs.1,97,915/- and net salary of Rs.1,54,485/-**.

The Hon'ble Supreme Court in an epoch making judgment in **RAJNESH vs NEHA [CRIMINAL APPEAL NO. 730 OF 2020 (Arising out of SLP (Crl.) No. 9503 of 2018)** decided on 04-11-2020 held as follows:

“(i) The factors which would weigh with the Court inter alia are the status of the parties; reasonable needs of the wife and dependent child; whether the applicant is educated and professionally qualified; whether the applicant has any independent source of income; whether the income is sufficient to enable her to maintain the same standard of living as she was accustomed to in her matrimonial home; whether the applicant was employed prior to her marriage; whether she was working during the subsistence of the marriage; whether the wife was required to sacrifice her employment opportunities for nurturing the family, child rearing, and looking after adult members of the family; reasonable costs of litigation for a non-working wife.

.....The court must take into consideration the status of the parties and the capacity of the spouse to pay for her or his support. Maintenance is dependent upon factual situations; the Court should mould the claim for maintenance based on various factors brought before it. On the other hand, the financial capacity of the husband, his actual income, reasonable expenses for his own maintenance, and dependant family members whom he is obliged to maintain under the law, liabilities if any, would be required to be taken into consideration, to arrive at the appropriate quantum of maintenance to be paid. The Court must have due regard to the standard of living of the husband, as well as the spiralling inflation rates and high costs of living. The plea of the husband that he does not possess any source of income ipso facto does not absolve him of his moral duty to maintain his wife if he is able bodied and has educational qualifications.

(ii) A careful and just balance must be drawn between all relevant factors. The test for determination of maintenance in matrimonial disputes depends on the financial status of the respondent, and the standard of living that the applicant was accustomed to in her matrimonial home. The maintenance amount awarded must be reasonable and realistic, and avoid either of the two extremes i.e. maintenance awarded to the wife should neither be so



extravagant which becomes oppressive and unbearable for the respondent, nor should it be so meagre that it drives the wife to penury. The sufficiency of the quantum has to be adjudged so that the wife is able to maintain herself with reasonable comfort.”

However in the last paragraph it has been held that:

“Apart from the aforesaid factors enumerated hereinabove, certain additional factors would also be relevant for determining the quantum of maintenance payable.”

It is a settled fact that the provisions of maintenance have been embodied in the **Bhartiya Nagrik Suraksa Sanhita, 2023** as a measure of social justice to protect the women and children of the society. The provisions as well as a plethora of judgments of higher courts have amply made it very clear that an able bodied person, who has his wife to support, has to maintain them in any condition. Here also, the opposite party is under a social, moral and legal obligation to look after his legally married wife and maintain her. This has been clinched by catena of judicial pronouncements that there having no fixed and inflexible formula, what should be the quantum of maintenance is based on the discretion of the court but the court while exercising such discretion is duty bound to take a just view of the matter and to see that it does not rehabilitate a party at the cost of the other and leaving the other side destitute. However the soaring price index and the spiraling prices of articles of daily consumption must also be considered while considering the amount of maintenance.

In presence of a strong prima facie case to go to trial and considering all the facets of this case, and in view of the present social scenario as well as the status of both the parties which have transpired till now from the record, the opposite party is having handsome fixed income, the marriage knot between the parties are for last 25 years and taking into note all other facets of this case, I am of the opinion that the petitioner/wife is entitled to get interim maintenance from the opposite party/husband. After considering the entire gamut of this case and the status of the parties, daily expenditure that has to be incurred for lively hood of the petitioner, and being pioneered by the principle laid in **(2021)2 Supreme Court Cases 324 [Rajnish vs. Neha]**, I am of the opinion that the petitioner must get a monthly maintenance to the tune of **Rs. 25,000/- per month for herself**. I think that such amount shall be enough for the petitioner to sustain herself for the time being till final order and in the present socio-economic archetype I am feel extremely loath in granting anything below the above specified amount.

Hence, it is

ORDERED

That the petitioner’s application for interim maintenance succeeds on **contest**. The O.P is hereby directed to pay **Rs. 25,000/- [twenty five thousand] per month** to the petitioner to the bank account of the petitioner, through **electronic mode** (as the opposite party is staying at New Delhi) as **interim maintenance from the date of filing of this case**, being pioneered by



the principle laid in (2021)2 Supreme Court Cases 324 [*Rajnesh vs. Neha*], till the final disposal of this case.

The arrear interim maintenance accrued to the petitioner by virtue of this order shall be paid by the opposite party in 08 (eight) equal installments along with the current month maintenance, through electronic mode, to the petitioner's bank account. Such amount has to be paid *within the 5th day* of each succeeding months for which it becomes due.

Petitioner shall be at the liberty to this order in execution in accordance with law.

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

To 21/01/2026 for evidence on behalf of the petitioner.

Typed by me;

Chief Judicial Magistrate,
Howrah

Chief Judicial Magistrate, Howrah