

Order dated 07.02.2026

Today is fixed for hearing.

Both parties are present.

Heard the both parties.

Now the record is taken up for passing necessary order.

The petitioner stated in her petition that The aggrieved person is the legally married wife of Respondent No. 1. Their marriage was solemnized on 23 January 2022 according to Hindu rites and customs at Haneswari Mandir, Bansberia, Hooghly, and was later registered on 10 November 2022 under the Hindu Marriage Act, 1955. At the time of marriage, the aggrieved person's father fulfilled the demands of the respondents by paying Rs. 3,00,000 in cash and providing gold ornaments and household articles, all of which constitute the aggrieved person's stridhan. After marriage, the aggrieved person started residing at her matrimonial home at Kankinara with Respondent No. 1 and his family members. Soon after the marriage, Respondent No. 1 began subjecting the aggrieved person to mental and physical cruelty, and the in-laws also joined in humiliating and harassing her. The aggrieved person was repeatedly abused, assaulted, threatened, and degraded over trivial matters, and her complaints to the family elders brought no relief. The aggrieved person was assaulted on several occasions, including incidents where she was beaten for touching her husband's bank passbook, slapped and threatened for speaking on the phone, and mercilessly assaulted after questioning his relationship with another woman. These acts caused severe mental trauma and depression to the aggrieved person. Attempts by her father and maternal uncles to resolve the matter only resulted in further humiliation, and the aggrieved person was ultimately driven out of the matrimonial home. Despite assurances by the respondents and registration of the marriage, the cruelty continued even after the aggrieved person shifted to an army quarter at Salt Lake. The aggrieved person was repeatedly beaten, isolated from her family, and threatened with dire consequences. On 19 February 2023, she was brutally assaulted, compelling her to lodge a police complaint, leading to registration of Bidhannagar South P.S. Case No. 40 of 2023 under Sections 498A/323/34 IPC and Sections 3 & 4 of the Dowry Prohibition Act. The aggrieved person is presently living at her parental home in a helpless and destitute condition, entirely dependent on her parents. All her stridhan articles remain in the custody of the respondents and are at risk of misappropriation. Respondent No. 1 has not paid any maintenance. Respondent No. 1 is employed as a Multi-Tasking Staff in the Indian

Army and earns about Rs. 40,000 per month. He has sufficient means but has willfully neglected to maintain the aggrieved person. Hence, the aggrieved person has filed the present application under Section 12 of the Protection of Women from Domestic Violence Act, 2005, seeking protection, residence, maintenance, and other appropriate reliefs.

Whereas the OP has denied all the allegation by the petitioner but The respondents stated that the respondents No. 1 is the legally married husband of the aggrieved person and that the marriage was solemnized on 23 January 2022 according to Hindu rites and customs. He contends that the aggrieved person voluntarily deserted him within a few months of marriage without any just cause and that she subjected him and his parents to continuous mental, emotional, and physical harassment. According to the respondent, the aggrieved person has suppressed material facts and has presented a distorted and exaggerated version of events in order to falsely implicate him and his family members. The respondent asserts that there was no demand for dowry at any stage of the marriage and that the marriage was negotiated through a common relative in a customary manner. After marriage, the couple started living together at Kankinara. Within a short period, the respondent noticed drastic behavioural changes in the aggrieved person, who allegedly became aggressive, arrogant, abusive, and unreasonable over trivial issues. She repeatedly objected to the respondent supporting his parents and attempted to restrain him from performing his familial obligations. Despite financial constraints, the respondent claims he tried to fulfil several demands of the aggrieved person, including costly items and outings, but her demands were beyond his financial capacity. The aggrieved person allegedly pressured the respondent to sever all ties with his parents and to live separately, asserting exclusive control over his income. When the respondent refused to comply, she became more hostile, abused his parents in filthy language, and behaved violently. The respondent further states that on 15 August 2022, the aggrieved person created a serious disturbance at the matrimonial home, abused the in-laws, and physically assaulted the respondent's mother, causing injuries. Due to her aggressive behaviour, the respondent was compelled to arrange a separate residence. Accordingly, in December 2022, the couple shifted to a government-allotted quarter at Bidhannagar, where they started living separately from the respondent's parents. Even after shifting to the separate accommodation, the behaviour of the aggrieved person allegedly did not improve. On

19 February 2023, she again became violent, abused the respondent, and threatened to falsely implicate him in criminal cases, forcing neighbours to intervene. Shortly thereafter, on 20 February 2023, the aggrieved person lodged Bidhannagar South Police Station Case No. 40 of 2023 under Sections 498A/323/34 IPC and the Dowry Prohibition Act, which the respondent claims was filed with mala fide intent, suppression of facts, and delay, solely to harass him and his family. The respondent maintains that the present proceeding under Section 12 of the Protection of Women from Domestic Violence Act, 2005 is not maintainable, as it lacks cause of action, is based on false and exaggerated allegations, and was filed without a supporting affidavit. He asserts that no incident of domestic violence has been made out against him and that the aggrieved person has misused the provisions of law to pressurize him into fulfilling illegal and unreasonable demands. The respondent further submits that he has lived in constant fear due to the aggressive and unpredictable conduct of the aggrieved person and that she has repeatedly threatened to implicate him and his parents in false cases. He claims to have made diary entries at local police stations and to possess CCTV and other records to substantiate his defence. Accordingly, the respondent prays for dismissal of the application in limine, as the aggrieved person is not entitled to any relief under the Protection of Women from Domestic Violence Act, 2005.

On perusal it appears that the marriage was solemnized on 23.01.2022. The aggrieved party is presently staying at her parental home and has claimed monthly expenses of Rs. 15,000/- as interim relief. The aggrieved party has submitted that the respondent no. 1 works as Multi Tasking Staff of Indian Army and he earns Rs. 40,000/- per month. The respondent no. 1 has submitted that his monthly income only of Rs. 32,586/- per month. It is pertinent to mention here that both aggrieved party and the respondent no. 1 has submitted all these facts with proper affidavit.

The definition of domestic violence as jotted in section 3 of the The Protection of Women from Domestic Violence Act, 2005 (PWDV Act) is very wide in its scope. It takes within its fold different acts including physical abuse, sexual abuse, verbal and emotional abuse and economic abuse. Under Sec. 23, Magistrate may pass such interim order as he/she deems just and proper for any proceeding before him/her under this Act. If the Magistrate is satisfied that an application prima facie discloses that the respondent is committing, or has committed an act of domestic violence or that there is a likelihood that the respondent may commit an act of domestic violence, he/she may

grant an order on the basis of the affidavit in such form, as may be prescribed, of the aggrieved person under section 18, section 19, section 20, section 21 or, as the case may be, section 22 against the respondent.

The plain reading of the provision goes to show that the magistrate has to satisfy himself/herself as regards the existence of a prima-facie case in the factual set-up projected by the aggrieved party /applicant on the basis of an affidavit. In its literal sense, 'prima facie' means on the face of it. The expression 'prima facie' is often used in common parlance to mean 'on first blush' or 'on first impression', without deriving a conclusive meaning. Therefore, if the allegations depicted in the application make out a case that falls among any of the category mentioned under section 3 of the Act, the court would then have to pass an order keeping in mind the object for which the Act was enacted.

At the outset, it is settled law that grant of interim maintenance under the Act is discretionary in nature and can be allowed only when the aggrieved person is able to establish, at least prima facie, that she was subjected to domestic violence as defined under Section 3 of the Act and that she is unable to maintain herself. In the instant case, the aggrieved person has alleged physical, mental, and economic abuse by the respondents and has relied upon the registration of a police case to substantiate her claims. However, at the stage of consideration of interim maintenance, the Court is required to examine whether the allegations disclose a prima facie case of domestic violence, warranting immediate monetary relief.

On the other hand, the respondents have categorically denied all allegations of cruelty and domestic violence. They have contended that the aggrieved person voluntarily deserted the matrimonial home without any justifiable cause and that, in fact, she herself subjected the respondent and his parents to mental and physical harassment. Specific instances have been cited by the respondents to show aggressive and violent conduct on the part of the aggrieved person, including alleged physical assault on the respondent's mother and repeated threats of false implication in criminal cases. The respondents have further asserted that no demand for dowry was ever made and that the criminal proceedings were initiated with mala fide intent.

It is evident from the pleadings of both sides that serious disputed questions of fact are involved, which cannot be adjudicated conclusively at this interim stage

without evidence. The allegations and counter-allegations are mutually destructive and require full-fledged trial for proper determination.

Mere registration of a criminal case, by itself, does not automatically establish domestic violence for the purpose of granting interim maintenance. At this stage, the aggrieved person has not been able to place sufficient material on record to establish a clear prima facie case of having been subjected to domestic violence so as to entitle her to interim monetary relief.

The tangled factual questions that have surfaced in the instant case from the pleadings of the contending parties would be dealt with according to the evidence led by the parties during trial. It is apparent that the aggrieved party only stayed a few months at her matrimonial home and there is no clear proof that the aggrieved party was subjected to physical violence, verbal and emotional abuse and the aggrieved party has also failed to establish a prima facie case in her favour. Both the parties have submitted their affidavit of assets and liabilities but they have submitted different facts in their affidavit of assets and liabilities. Presently, this case is standing on the submission of the aggrieved party on oath versus the submission of the OP on oath. Different documents have been submitted by the parties showing contradictory facts other than the fact submitted in the affidavit of assets and liabilities. The aggrieved party has stated many uncorroborated facts and the respondents have submitted the following documents 1) Xerox copy of injury report of Nitish Pandey dated 20.02.2023 and medical prescription, 2) Xerox copy of complain before Commissioner of police Bidhannagar dated 03.11.2023, 3) Xerox copy of complain before Commissioner of police Barrackpur and others and FIR no. 341/2025 against the petitioner, 4) Xerox copy of GD No. 493 dated 07.12.2022 and also written complaint, 5) Xerox copy of GD No. 1743 dated 14.02.2026, 677 dated 10.09.2024, 741 dated 11.12.2024, 442 dated 07.03.2025 and some photographs of Neha Pandey from the CCTV footage of different date in support of their claim whereas the aggrieved person has not submitted a single document in her support. So, there is no doubt that one of them is either lying or misrepresenting the fact before this court. In this situation, if an order is passed there is a high chance that it would be prejudicial for the adversary party. Under such circumstances without considering the evidence and proper documentary proof it seems to be impossible for the trial court to return a specific finding that the the aggrieved party was subjected to physical violence, verbal and emotional abuse by

the respondents, whereas it has been specifically submitted that the aggrieved party has willfully deserted the respondent no. 1.

Moreover, the respondents have appeared in this case and filed a written objection along with the affidavit of assets and liabilities, so this instant case absolutely ready for evidence.

Here is to be noted that no D.I.R. has been submitted by the protection officer and there is no prima facie proof that shows that the applicant was subjected to physical violence, verbal and emotional abuse at the hands of the respondents except the family drama. The other allegations if any are subject to final hearing and can not be determined at this stage without considering proper evidence and thus this court is not going comment on anything with that regard.

Accordingly, the prayer under section 23 is considered and refused at this stage. All the reliefs prayed by the aggrieved person are to be decided after consideration of the evidence.

Let a copy of this order be sent to the Protection Officer for his/her perusal.

Let a free copy of the order be given to the aggrieved party and O/C of concerned P.S. free of cost for compliance.

Fix 05.06.2026 for evidence.

Dictated and correct by me

Sd/-

Judicial Magistrate,

1st Court, Howrah

Sd/-

Disha Barai

(JO Code WB01420)

Judicial Magistrate,

1st Court, Howrah