

Misc case No. 523 of 2023

Order dated 15.05.2025

Today is fixed for passing interim order u/S 125 Cr.P.C.

Both the parties are present by filing hazira.

The record is taken up for passing order.

Heard the submissions of Ld. Advocates, perused the petition and other relevant documents.

The brief fact of the petition is that the petitioner is the legally married wife of the O.P. and their marriage was solemnized on 05.12.2005 under the provision of Special Marriage Act. After her marriage she started residing at her matrimonial house. Since after marriage the petitioner was neglected at the matrimonial home and very often the Opposite Party/ husband humiliated the petitioner and her family members. The petitioner should keep in mind that the Opposite Party's brother is a doctor and he has some respect in the society. The understanding between the petitioner and the opposite Party was not normal and Opposite Party did not accept the petitioner freely. The petitioner expecting good sense will prevail in the mind of the opposite party/ husband continued to stay in her matrimonial home. After in three months of her pregnancy she was sent to her paternal house and the parents of the petitioner took all care of her treatment. Thereafter she gave birth to a male child on 17.12.2006 namely Sritam in the hospital and then her mother-in-law told her to stay at her parents house and she will come after five months when the baby will grow a little and accordingly the petitioner was practically forced to go to her paternal house. The petitioner was asked to stay at home when all the family members of the O.P. participated in the invitation on occasions. The opposite party forced the petitioner to tell his doctor brother when she suffered any physical problem and when the petitioner denied to do so, she was forced to go to his brother regarding her ailments. From the very beginning the petitioner was subjected to mental torture to such an extent that it became impossible for her to live in the matrimonial home. Such continuous mental torture was inflicted upon the petitioner in the matrimonial home and she was very seriously neglected and she was denied of proper food and clothing and as such in the month of June, 2019 was forced to leave the matrimonial home and since then the petitioner is in her parent's house. After passing of few days she was not provided any proper food and clothing and as such in the month of June, 2019 she was forced to leave her matrimonial home and since then the petitioner is residing at her paternal house with her minor son.

The petitioner has no independent source of income to maintain herself and her minor son. The father of the petitioner is very poor and has no capacity to maintain the petitioner and her son. The son of the petitioner has got admission in Class XI at Abhoy Charan High School and for his education she has to spend Rs. 5,000/- (Rupees Five Thousand) only per month, so the petitioner is still suffering from financial issues.

The petitioner also states that the opposite party is a businessman and he runs his business of electronic repairing at Andul and Ramrajatala, from where he earns Rs.50000/- (Rupees Fifty Thousand) per month and has sufficient capacity to maintain the petitioner and her son.

The petitioner prayed before the Court for monthly maintenance in a tune of Rs. 7,500/- (Rupees Seven Thousand Five Hundred) per month for the petitioner and 7,500/- (Rupees Seven Thousand Five Hundred) for their son i.e. totaling Rs. 15,000/- (Rupees fifteen thousand) per month and Rs. 5000/- (rupees five thousand) as litigation expenses.

On the other hand the O.P has filed written objection against the instant petition and denied all the averments made by the petitioner and the O.P has not denied the marriage with the petitioner and their son but denied all the statements of the petitioner. The OP further stated that the petitioner being the wife of the opposite party never took any initiative to perform her duties to the daily household jobs and did not even show any respect towards the opposite party and her family members. From the very beginning the opposite party noticed that his wife was reluctant to do any household work and always disrespected the opposite party and elder family members. She never used to go to the kitchen or perform any household duties and always humiliated the opposite party and his family members without any reason. At first the opposite party ignored such rude behavior of the petitioner with a belief that things will improve gradually. As the days passed by the opposite party started noticing abnormal behavior of the petitioner. The petitioner started demanding costly clothes and ornaments which were beyond his means. Whenever the opposite party expressed his inability to afford such costly articles, the petitioner abused the opposite party with filthy languages and also assaulted him several times by fists, blows and kicks. The petitioner always addicted in television and cell phone during perform her household duties and used to talk with unknown persons over telephone. The family members of the petitioner use to come to the house of the opposite party in frequent manner and humiliate the opposite party and his family members with unrespectful filthy languages and even they also assaulted the opposite party and his family members physically. Whenever the opposite party tried to protest against the

situation the petitioner threaten him and his family members by saying that they will implicate the opposite party and his family members in false cases. On 21/08/2018 when the opposite party was on his work the family members of the petitioner suddenly came to the house of the opposite party without any reason. The petitioner along with her all stridhan articles left her matrimonial went to her paternal house forever. After leaving she threatened the complainant over telephone by saying that she will never return back because of the inability of the opposite party to fulfill her demands. Before leaving she told the family members of the opposite party that she no longer has any interest in the opposite party and she did not want to lead any conjugal life with him after that the petitioner went to her paternal house and started residing there which is situated at Shrivastava Enclave at Ghosh Para, village Jhorehat, P.S. Sankrail, Dist. Howrah, in the state of West Bengal. On the very next day i.e. on 22/08/2018 the opposite party / husband went to his wife's paternal home and requested her to return back with him. But she not only refused his proposal but also threatened him to imitate false criminal case against him and other family members. In spite of this, the opposite party repeatedly made effort to bring her back to her matrimonial home sometimes personally and some times over telephone, but all went vain.

The opposite party stated that he is a daily labourer and earns Rs. 7000/- (Rupees Seven Thousand) per month. The petitioner is continuously threatening the opposite party by saying that if the opposite party would not give divorce to the petitioner, then they will finish the entire family.

The opposite party further submits that as the petitioner's intention is very much unethical to squeeze out money from the opposite party and his family members and as she has no intention to lead her conjugal life, she is not entitled to get any maintenance from the opposite party. Hence the opposite party prayed for before this Court to reject the instant petition under objection in-limino with cost.

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 their son. 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, cloth or took any care by the OP and his family members. At this stage, the petitioner has prima facie established that she was tortured by the OP and his family members. The petitioner has no independent source of income

whereas the O.P runs his business of electronic repairing at Andul and Ramrajatala and earns Rs.50000/- per month. Both the parties have filed affidavit of assets and liabilities and this Court has duly considered the same. In the assets and liabilities of the petitioner stated that the OP earns Rs.50000/- and she has no income and on the other hand in the assets and liabilities of OP he stated that he earns only Rs.7000/- per month and the petitioner earns more than Rs.7000/- per month from her job in Tax firm at Howrah. 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 they have their minor son who is living with her mother and he himself stated that he earns Rs.7000/- per month and he is also legally bound to maintain the petitioner and their minor son. The OP has filed some medical documents showing that he is suffering from some ailment an also he has filed one deed prima facie show that the name of the petitioner appeared to be the joint owner of some property but at this stage owner of those documents can be proved by evidence. Hence, considering the basic minimum necessity of a school going child and also considering that school going child is living with the petitioner. 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 and her son for prevention of fragranc and destitution as the provision u/S 125 Cr.P.C. is a beneficial legislation.

Hence, it is,

Ordered

That the opposite party is hereby directed to pay the petitioner monthly interim maintenance in a tune of **Rs.2,000/- (rupees two thousand) only per month** for herself / petitioner and **Rs.3000/- (rupees three thousand) for her minor son**, totaling of **Rs.5000/- (Rupees five thousand)** per month to the petitioner from the date of filing of this case and **he is further directed to pay the maintenance by 10th day of each succeeding English calendar month.**

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

To 10.09.2025 for evidence.

D & C by me.

Keya Sarkar
(JO Code WB01123)
4th JM, Howrah

Keya Sarkar
(JO Code WB01123)
4th JM, Howrah

