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**Misc. Case No. – 64/2023**

**Present : Esharul Haque**  
**J.O. Code :- WB01482**  
**Judicial Magistrate, 2<sup>nd</sup> Court, Uluberia, Howrah**  
**CNR No. WBHW 120006372023**

In the matter of :

**Dali Karmakar & another ..... Petitioners**

**Vs.**

**Lalan Karmakar..... Opposite Party (OP)**

**Order dated :-**  
**09.06.2026**

1. Today is fixed for order on interim application.
2. Both parties file hazira.
3. Now, the record is taken up for passing of the order.
4. This is an interim application filed U/s 125 of Criminal Procedure Code (hereinafter referred to as Cr.P.C.) by the petitioner claiming maintenance against the Opposite Party (hereinafter referred to as O.P.).
5. The case of the petitioner is that she got married with the OP on 04.08.2020 as per Hindu rites and customs and the marriage was registered on 25.08.2020. At the time of marriage gold ornaments and other gifts items were given to the OP as per his demands and she went to her matrimonial home. But soon after, the OP and his family members started demanding further dowry of Rs.10,00,00/- . The petitioner could not fulfill the demand, so she was subjected to physical and mental cruelty by them. She was subjected to the torture during her pregnancy and even after the birth of a daughter.
6. The petitioner further stated that the OP had an illicit relationship with another woman. Lastly on 12.04.2022 she and her minor daughter were driven out of her matrimonial home after obtaining her signatures on blank papers. Since then she has been residing at her parental home in a distressed condition. The OP has neither maintained nor inquired about her and her minor child. It is stated that the OP is financially well off. He earns about Rs.40,000/- per month from idol-making. He has landed properties. As the petitioner has no independent source of income and is unable to maintain herself and her minor daughter, she has prayed for interim maintenance of Rs.4,000/- p.m for herself and Rs.8,000/- p.m for the child, totaling Rs.12,000/- p.m.

7. On the other hand, the O.P. denied all the allegations of the petitioner. It has been stated that this case is not maintainable either in law or fact. The petitioner has no cause of action. The allegation has been made falsely and frivolously against the O.P. with an intention to harass the O.P.

8. It is submitted that the marriage between the parties herein was a love marriage. It was solemnized on 04.08.2020 with the consent of both families. No dowry was demanded by the OP or given by the petitioner's family. After the marriage, the petitioner went to the matrimonial home, but after sometime her behaviour changed and she frequently quarreled with the OP on very petty matters such as income of the OP. She started suspecting him of illicit relations with different women and often threatened to implicate him and his family members in false cases.

9. It is further stated that the petitioner used to leave the matrimonial home without informing anyone and misbehaved with his family members. On 12.04.2022, the petitioner's relatives came to the matrimonial home and took away the petitioner and her minor child. Thereafter, the OP on several occasions requested the petitioner to return but she refused. It is further stated that several amicable settlements were tried to solve the matter but she did not turn up. Finding no other alternative, the OP filed a case for restitution of conjugal rights and the same is still pending. The OP claims that he is a poor construction worker earning about Rs.3,000–4,000/- p.m on average and has to maintain his aged and ailing mother whereas the petitioner earns about Rs.10,000–12,000/- p.m through tuition and other works. He claims that he gives money for treatment of the minor daughter and is willing to take back the petitioner and child to the matrimonial home.

10. Heard, considered, perused the materials relied upon both sides including the documents. Now before passing any order, this court requires to be satisfied on certain conditions which needs to be established beyond any reasonable doubt. Firstly the marriage is admitted by the O.P. so the petitioner is considered to be a “wife” which falls within the meaning, scope and preview of the section 125 Cr.P.C. Secondly in the landmark judgement of **Smt. Savitri –vs- Govind Singh Rawat, AIR 1986 SUPREME COURT 984 1986 Cri. L.J.41** Hon'ble Apex Court held that interim maintenance to the party claiming can be allowed only when the final disposal of the application u/s-125 is pending, and the party claiming interim maintenance is able to establish that he or she has not enough sustainable means to subsist until final disposal of the main application. Similar view was taken by the Hon'ble Court in **AIR 1975 SC 83: (1975) 2 SCR 483: 1975 Cri.L.J.** and now-a-days it is quite common that the applications u/s- 125 Cr. P.C. takes several months and years to be disposed finally and it causes great hardship and misery to the applicant and section 125 was enacted to provide a swift and cheap remedy for a neglected wife, child or parent who is unable to maintain themselves. The primary object of the Section is to prevent starvation and vagrancy.

**03**

11. Though the O.P. has denied all the allegations of the petitioner but the marriage is admitted. It is also not disputed at this stage that the petitioner has been residing separately.

12. Considering the submission of both sides and materials available on record, it appears to me that certainly there is a reason for this rift between the parties.

13. Whether the petitioner was subjected to cruelty on demand of dowry, neglected or has left the matrimonial house voluntarily cannot be decided at this stage in the absence of evidence. There are other allegations and counter allegations as well which at this stage in the absence of any evidence cannot be taken into for discussion and consideration. The OP has not denied the marriage, so the first and foremost criteria for awarding maintenance is fulfilled.

14. At this stage, without delving deep into the allegations and counter allegations, I am of the opinion that it is the incumbent upon the OP to maintain his wife. The OP once admits the marriage, he cannot escape his liability, save and except as provided in the provision which is yet to be proved.

15. No document in support of the income of OP or the petitioner has been filed by the parties. But it is a settled law that in deciding the quantum of maintenance, it is required to keep in mind the very reasonable means of the petitioner as well as the admitted income of the OP.

16. Considering the need of the hour, the present socio-economic condition and applying the rule of prudence, with a view to keep the life alive of the petitioner and her minor daughter during the pendency of the final disposal of the main application, I am granting a minimum amount of interim maintenance to the petitioner which would be justified for both the parties considering all aspects.

17. Hence, it is

**ORDERED**

that the interim application is allowed on contest without any order as to costs.

18. The O.P. is directed to pay Rs.2,500/- per month for the petitioner and Rs.1,000/- per month for her minor daughter viz. Sayantika Karmakar totalling Rs.3,500/- (Rupees Three Thousand Five Hundred only) per month from the date of the filing of the interim maintenance application payable within 10<sup>th</sup> day of each succeeding month for which it falls due till the disposal of this case. The arrear interim allowances, if any, be cleared within two months from this day.

**04**

19. In default, the petitioner has the liberty to put the order in execution to realize the amount as per law.

20. Thus, the interim application is hereby disposed of.

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

22. Fix **27.07.2026** for evidence.

D/C by me

J.M. 2<sup>nd</sup> Court Uluberia,  
Howrah.

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