

MC -33 of 2025
CNR NO : WBHW12006852025
J.O. Code : WBJ01491

Order dated : 13.07.2026

Today is the date fixed for passing exparte interim order.

Petitioner files hazira.

O.P. has filed an application for filing written objection and asset declaration with fresh power.

The O.P. has further stated that due to not getting any application or affidavit from the petitioner side he could not file the W.O.

The copy of the instant application is served to the other side and raised vehement objection.

Perused the order sheet dated 06.04.2026 and report from the summons officer, this Court has proceeded the matter as ex parte against the O.P. due to not taken any steps.

Today the O.P. though files a fresh power along with an application but without proper steps of vacating petition to set aside ex parte order passed against him though this Court has given him a reasonable chance in open Court to file requisite documents and proper steps but he did not do so.

Considered the present application and not taking any proper steps by O.P. at this stage it is hereby considered and rejected and an ex parte interim order was passed in faovur of the petitioner as per order dated 16.06.2026.

Ld. advocate of the petitioner is present. Now the case record taken for passing order of interim maintenance petition exparte. On the last occasion a full fledged hearing be done. Ld. advocate for the petitioner stated that on that she got married with the O.P. dated 01.08.2022 as per Muslim rites and ceremonies and at the time of marriage five bhories of gold ornaments, several cloths, furniture, utensils were given. After few days of marriage the O.P. started physical and mental torture for demand of more money. Being helpless the family of petitioner forced to give one motorcycle and two lakh rupees to the O.P. but O.P. still continues to torture upon the petitioner due to said reason. During wedlock one male child was born but still nothing change between them and finally on 25.12.2024 at about 18.00 hrs the O.P. driven out the petitioner with minor children from his house in single attire and being aggrieved the petitioner came back to her father's house with minor children and since then she is residing there and the OP has not taken any information or provide any maintenance towards them.

Having find no other shelter, the petitioner came back to her father's house and since then, she is residing in her father's house along with her minor child in distress condition. The petitioner alleged the OP is teacher is earning Rs.30,000/- to Rs.35,000/- per month and has landed properties and dwelling house.

The OP after servicing proper summon, has not appeared before this court and vide order dated 06.04.2026 and the OP has proceeded exparte in the instant case.

Heard and Considered.

Perused the materials relied upon the both sides including the document.

Perusal of the materials on record, I find that both the parties married as per social and registered marriage and their marriage is not disputed.

Upon perusal of the record, it is further appeared that children is also admitted in the above mentioned case.

Apart from the assets and liabilities affidavit, I do not find any further supportive document from the side of the petitioner regarding his claim that the OP has a monthly income of Rs. 35,000/- per month. As per Rajnish vs Neha, an affidavit regarding assets and liabilities was provided by the petitioner and from the page the said affidavit, it is found that the OP is a teacher and earns Rs.35,000 per month and has own accommodation.

Perusing the document on record, it is hereby affirmed that both the parties have got married and the marriage is not questionable and child is admitted. Having heard petitioner at length and after perusal the materials on record, it appears to me that the interim maintenance application is allowable pending disposal of the case for the following reasons:-

1. It is admitted the fact of marriage.
2. The petitioner is residing in her parents home.
3. The petitioner has no income of own as nothing supportive came.
4. The O.P. is not maintaining the petitioner and minor children.
5. The very purpose and scope of the legislative intention u/s 125 Cr.P.C is to provide the maintenance (either interim or permanent) to avoid the destitution and vagrancy of the petitioner and during pendency the litigation costs or day to day cost of the case also permissible and comes under the ambit of this section.
7. Pending disposal of the case and any other involved issues. This court has jurisdiction to grant interim maintenance allowance until disposal of the case.

8. O.P.has not turned up before this court after providing several chances to him and thus the version of the petitioner is taken as whole.
9. Children is admitted prima facie as the OP did not appear for contest the same.
10. The interim maintenance petition is duly supported with an affidavit sworn by the petitioner.
11. Upon considering the case on record this court at this stage has not found any exact document regarding the income of the OP apart from the affidavit filed by the petitioner it is found that OP has monthly income of Rs.35,000/- as teacher. Further it is also bounden duty of the OP to maintain her wife in no matter what when the marriage and children is solemnly admitted and this case the marriage was never denied and the OP has proceeded ex parte and thus version of the petitioner is taken as admissible.

Hence it is ordered that the application for interim maintenance by the petitioner is allowed on ex parte and finally disposed off.

The O.P. shall pay @ **Rs 3,000/- p.m. to the petitioner** and **Rs. 2,000/- petitioner no.2 i.e. total Rs 5,000/- per month** as interim maintenance allowance according to the English calendar by the 10th of each succeeding month till the disposal of this case in default of which petitioner would be at liberty to take recourse to law.

This order would have an effect from the date of filing of the petition of interim maintenance.

O/P is also directed to pay the arrear interim maintenance allowances which becomes due to the petitioner by dint of this order, to the petitioner within a span of ten (10) months in ten(10) equal installments from this date.

Let a copy of the order of interim maintenance be given to the petitioner, free of cost, as per the provision of Section 128 of the code.

Fixing **13.09.2026** for evidence of PW-1 on ex parte.

Petitioner to come prepare.

D/C by me

J.M. 1st Court Uluberia

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