

Mat 98/23 (CIS 98/23)

Order dated 02.01.2026

Today is fixed for passing order on the application filed by the petitioner under section 24 of Hindu Marriage Act.

Both the petitioner and the OP filed appearance through legal counsel.

Ld advocate for the petitioner and the OP are present.

Record is taken up for passing order.

This is a case where the petitioner-wife has prayed for an order for maintenance pendente lite from the OP-husband under section 24 of The Hindu Marriage Act.

Brief facts of the petitioner case

The petitioner-wife was married with the OP-husband on 11.05.2004 according to Hindu rites and custom. The petitioner has two daughters within this wedlock. The minor daughter is at present living with the petitioner-wife. It is submitted that the OP-husband and his inmates started torturing the petitioner in demand of money from her parents. The parents of the petitioner-wife gave Rs. 1.5 Lakh to the OP Husband according to his demand. However, the OP-husband started coercing the petitioner-wife after few days in further demand for money from her parents and tortured her physically and mentally. The parents of the petitioner-wife could not meet the demand due to their poor financial condition. On 20.11.2020 the petitioner-wife was driven away from the matrimonial house along with her minor daughters. It is averred that the OP-husband has deserted the petitioner-wife and daughter since 20.11.2020. Since the time the OP-husband has not paid any amount for the maintenance of the Petitioner-wife and daughters. It is pointed out that the OP-husband has a photography shop, landed property and others business. He earns about Rs. 40,000/- to Rs. 50,000/- per month. On the other had the petitioner has no source of income to sustained herself. She is passing her days in financially distressed condition. Thus the Petitioner-wife prays for maintenance pendente-lite of an amount of Rs.30000/- per month (Rs. 15,000/- per month to the petitioner-wife and Rs. 7,500/- per month to each of the 2 minor daughters) till disposal of the suit .

The OP's written objection

The OP-husband has denied all the averments made by the petitioner-wife in the application claiming maintenance pendente lite. It is submitted that the petitioner-wife voluntarily left the matrimonial house on 20.11.2020. The OP-husband went to the paternal house of the petitioner-wife to bring her back but she refused to return. It is further submitted that the petitioner-wife had no interest to resume matrimonial life with the respondent-husband. It is further claimed by the OP-husband that the petitioner-wife is doing business in tailoring shop of her father and earning Rs. 30,000/- to Rs. 40,000/- per month.

Decision with reasons

The point which has emerged in this application is whether the petitioner-wife is entitled to maintenance under section 24 of Hindu Marriage Act having no independent source of

income. According to the Id advocate for the petitioner-wife the expression "maintenance" and "support" appearing in section 24 of Hindu Marriage Act are indicative of the legislative intent that if the income of the wife is in gross disparity with the income of the husband, she is entitled to maintenance from the husband to maintain and keep herself with the status of the husband in the society.

It is claimed that the petitioner-wife has no independent source of income. Nothing has been placed in record to evince the income of the petitioner-wife. And, it is claimed by the Petitioner-wife that her husband has photography shop, landed property and others business and earns Rs. 40,000/- to Rs. 50,000/- per month.

Now it is necessary to look into the language of section 24 of Hindu Marriage Act to comprehend to a legislative intent.

Section 24 of Hindu Marriage Act.

"24. Maintenance pendente lite and expenses of proceedings - Where in any proceeding, under this Act it appears to the Court either the wife or the husband, as the case may be, has no independent income sufficient for her or his support and the necessary expenses of the proceeding, it may, on the application of the wife or the husband, order the respondent to pay to the petitioner the expenses of the proceeding, and monthly during the proceeding such sum as, having regard to the Petitioner's own income and the income of the respondent, it may seem to the Court to be reasonable."

Section 24 of the Hindu Marriage Act entitles the wife having no independent income sufficient for her support and necessary expenses of proceedings, to be paid such amount which the court thinks reasonable.

Thus section 24 of the Hindu Marriage Act awards compensation to the wife to be determined on the basis of husband's income which the court thinks reasonable and sufficient for the wife's support and necessary expenses of the proceeding.

The expression "support" has been interpreted by the Supreme Court in *Rajesh Burman vs Mitul Chatterjee (Burman)* (2009) 1 SCC 398:

"The section, however, does not use the word maintenance but to me it appears that the word support and maintenance are synonymous. Support means to provide money for a person to live on like he supports a family or he supports his old mother. Maintenance is an Act of maintaining i.e to support with money."

"It may be useful at this stage to refer to the definition of maintenance as given in the Hindu Adoptions and Maintenance Act, 1956. Under section 3 of that Act, maintenance includes (i) in all cases, provision for food, clothing, residence, education and medical attendance and treatment; (ii) In the case of an unmarried daughter also the reasonable expenses of and incident to her marriage"

Thus the Hon'ble Apex Court held that the expression "maintenance" and "support" are synonymous in nature. And the expression "maintenance" though not defined under Hindu Marriage Act; the meaning of the expression can be borrowed from section 3 of the Hindu Adoption and Maintenance Act 1956. It included all cases for provisions for food, clothing,

residence, education and medical attendance and treatment. So in case of section 24 of the Hindu Marriage Act, the expression "no independent income", "sufficient" and "support" are to be interpreted harmoniously and the maintenance is to be awarded to the wife having no sufficient income for her sustenance.

The question as to what income is sufficient for the support of the wife would have to be determined with reference to the class, she and her husband belong to. The quantum of maintenance varies and depends upon the various factors like ability of the husband, needs of the wife, the social status and other requirements etc. Therefore, the quantum of maintenance is dependent upon the various factors and is not abridged and/or squeezed with the outer ceiling limit.

On the conspectus of the above legal aspect, let us consider whether the application filed by the wife under section 24 of the Hindu Marriage Act deserves rejection. The parties were married under Hindu Marriage Act on 11.05.2004 and from said wedlock, two female child were born. Admittedly the parties are separated since 20.11.2020. It appears that the wife has to sustain herself and her minor daughters. It is claimed by the OP-husband that the petitioner-wife is doing business from the tailoring shop of her father. However, no document has been produced by the OP-husband to prove the income of the Petitioner-wife. The petitioner-wife filed this suit for divorce wherein the petitioner-wife took out this application under section 24 of the Hindu Marriage Act. It appears from affidavit of asset and liability filed by the OP-husband that his income is "nil". Similarly it appears from the affidavit of asset and liability filed by the petitioner-wife that she has no independent source of income and residing at her paternal home along with her daughters. The petitioner-wife has asserted that her monthly expenses is about Rs. 30,000/- per month out of which Rs. 15,000/- per month is required for the expenditure of the dependent children. However, it is stated in the affidavit that on the date of filing this application for maintenance the the petitioner-wife is receiving maintenance in MR case No. 187/2021 and MR Execution 66/2022 in terms of the order passed by the Ld Judicial Magistrate 2nd Court Alipurduar. It is asserted that the amount received by the petitioner-wife in MR case is not just and consistent for modest living of the petitioner-wife and her daughters.

Now, under section 24 of Hindu Marriage Act the wife is entitled to monthly payment from the husband if she does not have independent income sufficient to support herself and meet the expenses of proceeding. In this case, the OP-husband could not produce any document to prove independent income of the petitioner-wife. But it is undisputed that petitioner-wife is receiving maintenance amount in MR case filed by her against OP-husband. It appears to be the only source of sustenance for the petitioner-wife. It also appears that the OP-husband is providing only for himself out of his earnings whereas the petitioner-wife has to support three souls out of her means of support. Thus, the ratio of earning to expenditure of the petitioner-wife is much less then that of the OP-husband. The earning of the petitioner-wife will always falls short of that which can be said to be a sufficient income. The earning of the wife can not be said to be sufficient to support herself and her daughters. Thus it would be harsh on the wife to be denied maintenance or expenses of the proceeding in the present case in view of the discussion made above. In the aforesaid premises, this court is of the view that the petitioner-wife is entitled to get relief.

Hence, it is

ORDERED

That the Petitioner-wife is entitled to a sum of Rs. 7,000/- per month as maintenance pendente lite from the date of filing of the Misc application .

The OP-husband is directed to pay a sum of Rs. 7,000/- per month to the Petitioner-wife as maintenance pendente lite till disposal of the original Mat suit.

The amount of Rs. 7,000/- per month awarded under section 24 of Hindu Marriage Act is adjustable against the amount awarded to the petitioner-wife under section 125 Cr PC by the Ld Judicial Magistrate 2nd Court Alipurduar in MR case No. 187/2021.

Thus the application stands disposed.

Fixing 16.03.2026 for PH.

Addl. Dist. & Sessions Judge,
FTC-I, Alipurduar.

Additional Dist. & Sessions Judge,
1st Fast Track Court, Alipurduar.