

WBMD090000592024



**In the Court of Judicial Magistrate, Additional Court, Lalbagh,
Murshidabad.**

Present :- Shrinivas Prasad Shah

M.R. Case No. 16 of 2024

(C.I.S. Registration No. 16 of 2024

Order Dated :-15-05-2025:-

As stipulated by previous order today is fixed for passing order..

Now the record is taken for passing order.

Here the petitioner Ruma Khatun claiming herself to be legally married wife of the opposite party Imran Ali has prayed for grant of interim maintenance allowance of Rs. 10,000/- p.m. for herself.

The case of the petitioner is that, her marriage was solemnized with the opposite party on 09-05-2023, according to Muslim Rites and Customs. At the time of marriage gold ornaments and all other household utensils were given. After marriage she led conjugal life with the opposite party in her matrimonial house. Allegedly, the petitioner was subjected to physical and mental torture by the opposite party husband and his family members for demand of dowry which petitioner failed to bring. Respondent assaulted her and lastly on 05-12-2023, she was driven out from her matrimonial house. The petitioner is now passing her days in financial stringency and staying in her parental house. The opposite party is stated to have refused and neglected to maintain her. According to the petitioner, the opposite party is an able bodied person and he works as Decorator. He has earning to the tune of Rs. 40,000/- p.m. and from his landed property. In the light of such fact the petitioner has prayed for grant of interim maintenance allowance for herself.

The opposite party in his written objection has admitted the marriage with the petitioner wife but denied other allegations leveled against him. According to him the petitioner left his company on her own accord. O.P further contended that petitioner used to earn from work of biri binding.

Opposite Party further contended that petitioner used to leave her matrimonial house voluntarily and used to go to her father's house. O.P. took petitioner to her matrimonial home several times but she refused to go to her father's house. O.P. further contended that his condition is very poor and petitioner did not want to reside with him. Contending the fact that he works as daily labour and he belonged to BPL and earns Rs. 4,000/- per month and Opposite Party has

prayed for rejection of the application for interim maintenance as petitioner used to earn money from biri binding and she also get money from Lakhi Bhandar.

I have perused the affidavit for assets and liabilities filed by both sides. As per decision of Hon'ble Apex Court in **Rajnish Vs Neha**¹.

On such hearing perusal and consideration following facts become clear to this court as broad daylight:

1. Petitioner in this case Ruma Khatun is admittedly the legally married wife of the sole opposite party Imran Ali.
2. There is no challenge as to marriage in this case.
3. There is no challenge as to paternity as well.
4. It is not the case of lone opposite party Imran Ali that he is a man with physical disability that prevents him from earning his livelihood. In fact, on the contrary, it is in admission in this case that the lone opposite party has a definite source of income. Accordingly, it is in admission in the case that the lone opposite party has capacity of earning his living.
5. It is not the case of the lone opposite party that petitioner is living in adultery in any manner.
6. It is not the case of the lone opposite party that they are living separately by mutual consent.
7. It is not the case of the lone opposite party that petitioner has remarried.
8. It is not the case of the lone opposite party that he does not bear any responsibility to maintain the petitioners.
9. It is not the case of the lone opposite party that he has in any manner tried to maintain the petitioners since they have been maintaining separate societies.

All the above facts being well established what remained was application of the settled provision of law that every "able bodied person" was bound to maintain his wife notwithstanding that all other facts were at loggerheads with each other and were subject to proof at trial upon recording of evidence. Instant case was found to be a perfect example where the aforesaid principle found its application.

There is no glimpse of any material in the record to suggest that the Opposite Party provided maintenance to the petitioner except pleading till date or that the Petitioner is having independent income of her own sufficient to maintain

1 (2021)2 SCC 324

herself as contended. Although there are allegations and counter allegations which are the matter of trial.

Considering the facts and circumstances of the case and material in the record, I feel no hesitation to allow the application for interim maintenance.

Hence, it is

ORDERED

that the application dated 05-01-2024, filed by the petitioner praying for interim maintenance is allowed in part on contest without any costs.

The petitioner does get an interim maintenance allowance of Rs. 3,000/- (Rupees three Thousands Only) per month for petitioner till her remarriage or till disposal of instant case which ever is earlier from the date of filing of interim application, i.e. 05-01-2024.

This order of interim maintenance shall take effect from the date of interim application i.e. 05-01-2024.

The opposite party is directed to pay the arrears interim maintenance of each month along with with current month's maintenance.

The opposite party is directed to pay arrears interim maintenance of one month along with current month's maintenance within the 10th day of the succeeding month as per English Calendar ; failing which the petitioner will be at liberty to put this order in execution.

Let a copy of this order be supplied to the petitioner free of costs at once.

Fix 31-10-2025 for evidence.

Typed by me

Judicial Magistrate
Additional Court,
Lalbagh, Murshidabad

Judicial Magistrate
Additional Court,
Lalbagh, Murshidabad