

MR 30 of 2024

Present : Sneha Basu

Judicial Magistrate

Nabadwip, Nadia

CNR No. WBND 060005452024

JO Code – WB01437

Order dated 12.06.2026

1. Today is fixed for order on petitioner's application for interim maintenance.

Both sides are present/represented.

Heard the Ld. Counsel for both parties on an earlier occasion.

The record is taken up for passing order.

Petitioner's Case

2. The case of the petitioner, in brief, is that her marriage with the Opposite Party was solemnised according to Hindu rites and customs on 16.12.2019. It is alleged that at the time of marriage cash amount of ₹30,000/-, gold ornaments and other articles were given by her family. The petitioner has alleged that after marriage she was subjected to physical and mental cruelty by the Opposite Party and his family members. According to her, she was repeatedly humiliated and tortured on various grounds and was ultimately driven out of her matrimonial home on 11.03.2021. Since then she has been residing at her parental home. It is further alleged that the Opposite Party has neglected and refused to maintain her. The petitioner has stated that she has no independent source of income and is unable to maintain herself. According to her, the Opposite Party carries on business relating to gas cylinders and household articles and also possesses agricultural lands, earning approximately ₹50,000/- per month.

On such allegations, the petitioner has prayed for interim maintenance of ₹10,000/- per month.

Opposite Party's Case

3. The case of the Opposite Party, in brief, is that the allegations made by the petitioner are false, fabricated and motivated. While admitting the marriage, the Opposite Party has denied all allegations of cruelty, torture and neglect. It is contended that the petitioner voluntarily left the matrimonial home without any reasonable cause. The Opposite Party has alleged that prior to marriage certain material facts regarding the petitioner were concealed from him and that the petitioner herself was unwilling to continue the matrimonial relationship. It is further alleged that the petitioner was engaged in tailoring work and other activities and was earning about ₹8,000/- to ₹10,000/- per month. On the aspect of income, the Opposite Party has stated that he is presently working as a delivery worker and earns approximately ₹8,000/- per month. He has further stated that he has to maintain his aged and ailing mother and is facing severe financial hardship. Accordingly, prayer has been made for rejection of the application for interim maintenance.

Points for Determination

4. For deciding an application for interim maintenance under Section 125 of the Criminal Procedure Code, the Court is required to prima facie consider:

(i) whether the petitioner is the legally wedded wife of the Opposite Party;

(ii) whether there is prima facie neglect or refusal to maintain;

(iii) whether the petitioner is unable to maintain herself;

(iv) what should be the reasonable quantum of interim maintenance. (Contd.....)

Point No. 1: Marital Status

5. The marital relationship between the parties is not in dispute. The Opposite Party has admitted the marriage.

Accordingly, this point is decided in favour of the petitioner.

Point No. 2: Neglect or Refusal to Maintain

6. It is an admitted position that the petitioner and the Opposite Party are residing separately. The petitioner has alleged that she was subjected to cruelty and was compelled to leave the matrimonial home, whereas the Opposite Party contends that the petitioner voluntarily left the matrimonial home and refused to return. These rival allegations involve disputed questions of fact which can only be adjudicated after evidence is adduced by the parties. At the stage of consideration of interim maintenance, the Court is only required to arrive at a prima facie satisfaction.

7. The Opposite Party has not produced any material to show that he has been regularly maintaining the petitioner after she started residing separately. There is no material on record indicating payment of any amount towards her maintenance.

In such circumstances, and considering the admitted marital relationship, this Court is of the prima facie view that neglect to maintain stands established.

This point is accordingly decided in favour of the petitioner.

Point No. 3: Petitioner's Ability to Maintain Herself

8. The petitioner has asserted that she has no independent source of income and is presently dependent upon her parental family.

The Opposite Party has alleged that the petitioner earns ₹8,000/- to ₹10,000/- per month through tailoring and other work. However, no documentary material has been placed on record to substantiate such allegation. A mere assertion regarding income, unsupported by any material, cannot be accepted at this interlocutory stage so as to disentitle the petitioner from claiming interim maintenance.

Accordingly, this point is also decided in favour of the petitioner.

Quantum of Interim Maintenance

9. The petitioner has alleged that the Opposite Party earns approximately ₹50,000/- per month from business and agricultural sources. The Opposite Party, on the other hand, has claimed that he earns only about ₹8,000/- per month as a delivery worker and has the responsibility of maintaining his aged and ailing mother.

The income of the Opposite Party is thus seriously disputed. No reliable documentary evidence has been produced by either side regarding the actual income of the Opposite Party.

The Court cannot, at this interlocutory stage, accept the income disclosed by either party in its entirety. It is, however, well settled that an able-bodied husband cannot evade his obligation to maintain his wife.

(Contd...)

10. Considering:

- the admitted marital relationship;
- the prima facie neglect to maintain;
- the absence of satisfactory proof regarding independent income of the petitioner;
- the disputed income of the Opposite Party;
- the admitted earning capacity of the Opposite Party; and
- the need to balance the requirements of the petitioner with the financial obligations of the Opposite Party,,

this Court is of the view that a moderate amount would meet the ends of justice at this stage.

Hence, it is

ORDERED

11. The application for interim maintenance is allowed on contest in part, without order as to costs.

The Opposite Party is directed to pay a sum of ₹3,000/- (Rupees Three Thousand) per month to the petitioner as interim maintenance, with effect from the date of this order, until disposal of the main case.

The Opposite Party shall pay the said amount within the 10th day of each succeeding English calendar month, failing which the petitioner shall be at liberty to realise the same through Court.

Supply a free copy of this order to the petitioner.

Fix 12.10.2026 for evidence.

Sd/-

**Judicial Magistrate
Nabadwip, Nadia**