

Mr Maintenance/69/2024
Present : Preetha Mukherjee,
Judicial Magistrate,
Nabadwip, Nadia.
JO Code WB01445
CNR No. WBND 060011732024
RANJITA KUNDU Vs. BISWAJIT KUNDU

Order date 03/11/2025

Today the record is fixed for hearing of interim maintenance application, W.O to be filed in the mean time.

Petitioner is present by filing hazira.

O.P files a petition praying for time on the ground stated therein.

Considering the conduct of the O.P, time prayer is rejected.

The interim petition shall be taken up for hearing in the second half.

Later,

Ld. Advocate for the O.P files Show cause, W.O and Asset & Liability Statement.

Now, the record is taken up for hearing of interim maintainance application.

Heard the Ld. Advocate for both the parties.

The case of the petitioner in brief is that she is the married wife of the O.P. and their marriage was solemnized on 28/02/2011 as per Hindu rites and customs and the said marriage was duly registered on 28/03/2011. At the time of marriage, the father of the petitioner gave cash of Rs. 2 lakh, various gold ornaments, dressing table, fridge, almirah, cot and other household articles to the O.P. After marriage, the petitioner went to her matrimonial house and both of them started to live together as husband and wife. Thereafter, the OP and his family members started to torture the petitioner both physically and mentally in demand of money. Then, the petitioner gave birth to her daughter, namely, Aparajita Kundu. The petitioner also claimed that the O.P was engaged in illicit relationship with multiple women and when she raised protest against that, the O.P started abusing her in filthy language and also assaulted her. The O.P also pressurized the petitioner to give him mutual divorce and when she refused, the level of torture increased. Then on 17/11/2024 at about 12 hours, the O.P and his family members asked the petitioner to bring cash from her father and when the petitioner refused, the O.P started abusing her in filthy language and assaulted her by fists, blows and kicks. Thereafter, the O.P drove the petitioner out of her matrimonial house along with her minor daughter after keeping all her important documents in their custody. Finding no other alternative, the petitioner was forced to take her shelter in her parental home along with her daughter. The O.P did not look after the petitioner and did not provide any maintenance to her. The petitioner has no source of income. Petitioner has also submitted that the O.P. is an able bodied person and works as a Group B staff at B.L & L.R.O, Chapra from which he earns Rs. 60,000/- per month.

Petitioner has claimed Rs. 15,000/- for herself and Rs. 7,000/- for her daughter (Total Rs. 22,000/- per month) as interim maintenance.

O.P has admitted the fact of marriage and paternity. The O.P has denied all the other allegations made by the petitioner. O.P has further stated that the petitioner had voluntarily left her matrimonial house along with her daughter. Ld. Advocate for the O.P submits that the O.P pays Rs. 3000/- per month to his wife i.e the petitioner and hence, the instant petition for interim maintainance shall not lie against him. He further states that the O.P has also filed a petition for restitution of conjugal rights against the petitioner.

Ld. Advocate for the petitioner admits that the O.P pays Rs. 3000/- per month to the petitioner but also states that the same is being paid after the instant case was filed and also adds that the case for restitution of conjugal rights was also filed after the instant case was filed.

Perused the pleadings of both the parties, the documents submitted therewith and the Asset & Liability statements.

Now the point is as to whether the petitioner is entitled to get interim maintenance for herself.

Section 125 code of criminal procedure deals with the maintenance of wife, children and parents. It states that if a person has sufficient means but neglects or refuses to maintain his wife, children, father and mother, Court can order him to pay monthly allowance towards maintenance of the above mentioned persons.

In the present case both marriage and paternity has been admitted. The contention of the O.P that the petitioner has left her matrimonial house voluntarily is a matter to be decided at the end of trial on the basis of evidence adduced by both parties. In view of the provision laid down under Section 125 Cr.P.C, this Court is of the opinion that the OP is liable to pay interim maintenance to his wife at this stage.

Now so far quantum of maintenance allowance is concerned, such allowance should be fixed considering the status, and needs of the petitioner and also regard being had to the status of the opposite party. In my view allowance should not be such an amount which would be penurious to opposite party and luxurious to petitioner. It has also been admitted by both the parties that the O.P is paying Rs. 3000/- every month to the petitioner. However, considering the background of the O.P's income and the current market price, this Court believes that Rs. 3000/- per month is a meagre amount for the petitioner to sustain herself and her daughter. Therefore, considering the basic requirements of the petitioner an amount of **Rs 5,000/- per month** may be awarded to the petitioner for herself and **Rs. 3,000/- per month** for her daughter's maintenance so that she can mitigate the necessity of her attempt to survive and to continue with the litigation for achieving final objective concerning her prayer for granting monthly maintenance under Section 125 of the Code of Criminal Procedure.

Hence, it is

ORDERED

that the prayer of the petitioner for interim maintenance is hereby allowed against the opposite party with contest and without any cost.

The opposite party is directed to pay an amount of **Rs 5,000/- per month for the petitioner** and **Rs. 3,000/- per month** for her daughter as interim maintenance allowance from the date of this order. The opposite party is further directed to pay to the petitioner the ordered amount on 10th day of each succeeding English Calender Month.

To 07/01/2026 for evidence (PWs).

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

Dict. & Corrected by me,

Sd/-

J.M, Nabadwip, Nadia.