

**Misc. Case no. 255 of 2023**

**Order dated 10-03-2026**

Record is fixed today for passing order in respect of interim maintenance application of the petitioner.

Both sides files hazira.

The record is now taken up for passing order.

Perused the case record.

The case for the petitioner is that she got married to the OP on 12-3-2005 as per Hindu rites and customs with sufficient dowry. After marriage, she started residing at her matrimonial house and from the wedlock, she was blessed with one female child namely Ambika Sadhukha, now aged about 14 years. After few days, she was subjected to both physical and mental torture by her in laws on demand of one motorcycle and cash of Rs. 50,000/-. On 20-05-2008, she was assaulted by the OP and his family members and was driven out from her matrimonial house alongwith her minor daughter. She lodged cases but the matter was amicably settled between them and she again started residing at her matrimonial house and was blessed with one male child namely Avik Sadhukha, now aged about 7 years. The OP again tortured her mentally and physically after consuming liquor on demand of further dowry. Lastly, on 17-04-2023, the OP and his family members drove her out from her matrimonial home along with her children after assaulting her. Since then she is residing at her father's house alongwith her minor children in hardship as she has no source of income. On the contrary, the OP is working as a Tower Controller and has 20 Bighas of landed property wherefrom he is earning Rs. 50,000/- per month but he did not provide any maintenance to them. Therefore, she prayed for an interim maintenance to the tune of Rs. 10,000/- per month for herself and Rs. 5,000/- each per month for her minor children.

The OP contested this case by filing written objection and objected to all the contentions of the petitioner and stated that the petitioner is an arrogant and stubborn lady. She used to lead her life in an indecent and immoral way. She used to leave her matrimonial house frequently without giving any intimation to them. He submits that he is a mason and hardly earns Rs. 6,000/- to Rs. 7,000/- per month. He submits that petitioner is earning Rs. 25/30 thousand per month from her hotel business. Hence, he prayed for rejection of maintenance application of the petitioner.

Both the parties filed their respective disclosure on affidavit of assets and liabilities. The petitioner mentions her monthly expenses of Rs. 10,000/- and total expenditure as Rs. 20,000/-. Other than that, all the remaining columns have been left blank by her.

The OP in his disclosure on affidavit of assets and liabilities mentions himself to be a day labour. He earns Rs. 6,000/- to Rs. 7,000/- per month and has expenses of Rs. 5,000/- He has no dependents. He denies paying any maintenance to his wife and also expressed that he is not willing to pay the same. His wife earns Rs. 25,000/- to Rs. 30,000/- per month. In Part IV, column no. 45, he mentions his income as Rs. 25,000/-. The column for expenditure is mentioned as 'NA'. NO other information has been further filed by him.

After perusing the record, the court finds that the factum of marriage has been admitted by both the sides. There is no doubt of the fact that the petitioner is the legally wedded wife of the OP. Both of them agree on the paternity of children and the children staying with their mother.

Both of the parties also admit to be residing separately with each of the party alleging each other for the exit of the petitioner from the matrimonial house. The said dispute between the parties can only be determined after evidence is taken in the record.

The petitioner has stated that she has no income of her own. The OP stated that the

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petitioner is making an income but could not show the source from which such income is generated and also could not show any supportive documents. Hence, it can safely be assumed her, at this stage, that the petitioner has no source of income. The petitioner stated the income the O.P. to be Rs. 50,000/- per month but again no documents are filed. O.P. on the other hand, affirms that he is earning Rs. 6,000/- to Rs. 7,000/- per month, but then he again fails to provide any relevant paper or his Bank statement in support of his such income. He also failed to file any receipt given him for his payment. Since he is the best person to prove his own income, the O.P. ought to had brought relevant information in the record.

It is pertinent to mention here that petitioner has stated that her monthly expenses are about Rs. 50,000/- per month but has failed to justify the same by producing relevant documents. Mere ocular averments do not prove any facts. Also, both the parties have not been able to file any paper about his expenses. It is also admitted that the OP did not provide any maintenance to his wife and minor children since their separation.

Section 125 of CrPC is a beneficial legislation by nature. Since the petitioner is the wife of OP, she is entitled to maintenance from her husband/O.P. The object of providing maintenance under provisions of section 125 of Cr.P.C is to prevent starvation and vagrancy in the society. On several occasions the Apex Court has laid down the principle that the object of being to prevent vagrancy and destitution, it has to be found out what is required by the wife to maintain a standard of living which is neither luxurious nor penurious but is modestly consistent with the status of the family.

Considering the relationship between the parties, it becomes the duty as well as the responsibility of the husband to maintain his wife. It has to be seen that the petitioner should not be left to suffer the pangs of hunger or be left as a destitute. At the same time, it should be also taken care of that the opposite party may not be penalised in the name of providing maintenance to the petitioner. The earnings of the husband, his capacity to earn and his commitments are also relevant factors. A balanced approach has to be adopted. Therefore, it would be in the fitness of the things to hold that the petitioner wife should get at least Rs. 2,500/- (Rupees Two Thousand Five Hundred only) per mensem and each of the minor child should get at least Rs. 1,000/- (Rupees One Thousand only) per mensem from the date of filing of this case so that they do not become the scrap-heap of the society. Law has enjoined upon the husband a duty to look after the wife. Every religion sanctions this. Morality demands it.

Hence, it is

**Ordered**

that the prayer for interim maintenance filed by the petitioner Pinki Sadhukhan is hereby considered and allowed on contest.

Accordingly, the OP namely Ajoy Sadhukhan is directed to make payment of Rs. 4,500/- (Rupees Four thousand Five Hundred only) per mensem to the petitioner by the 10th day of every month as per English calendar since the date of filing of this instant case.

In case of infraction of this order by the opposite party, the petitioner would be at liberty to execute the same through the process of the Court.

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

Fix 25-06-2026 for evidence.

**D/C by me**

sd/- A. Singhal  
**Judicial Magistrate, 3<sup>rd</sup> Court,  
Ranaghat, Nadia (i/c).**