

M. Case No. 132/25
Smt. Sujata Dhar vs. Shri. Mani Sharma

Order dated: 10.08.2026

Today is fixed for order with respect to the interim maintenance petition filed by the petitioner against her husband claiming interim maintenance of Rs.30,000/-per month for herself and her minor child.

Both parties files hazira.

Heard both sides.

The record is taken up for passing order.

The petitioner's case in a nut shell is that her marriage with the OP was solemnized on 20.05.2013 as per the Hindu rites and rituals. At the time of marriage, the father of the petitioner gifted several articles as per demand of the OP and the same was entrusted upon the mother in law of the petitioner. The marriage between the parties was duly consummated and out of the said wedlock one female child namely Yukti Sharma was born on 02.09.2016. Soon after bhoubhat, the OP started demanding money from the petitioner for his business and when the petitioner refused to bring the money, the OP started to inflict mental and physical torture upon her. Whenever the child of the petitioner became ill, the OP used to send the petitioner and her minor child to the parental house of the petitioner. On 23.02.2020 the OP brutally assaulted the petitioner and tried to kill her and the petition escaped from the house. The petitioner after few days went back to her matrimonial home to resume her conjugal life but the OP and his family members did not allowed her to enter. The OP used to send money for the minor daughter of the petitioner but he stopped sending the same. It is submitted that the petitioner has no source of income and she is unable to maintain herself and her minor daughter. On the other hand OP is an able bodied person and he is a tattoo artist and he owns a make-up studio and academy at Belgachia wherefrom he earns Rs.,50,000/- to Rs.60,000/- per month. The OP has willfully neglected and refused to maintain the petitioner and her minor child despite of having sufficient income. The petitioner has prayed for Rs.30,000/-per month for herself and her minor child.

The OP by filing show cause/WO denies all the allegation made in the record and admitted the fact of marriage and paternity of the child and prays for dismissal of the petition. OP submitted that after the birth of the child he noticed severe behavioral changes in the petitioner. The petitioner refrained from intimacy with the OP and she misbehaved with the mother of the OP. The petitioner started spending more of her time at her parental house and she refused to return to her matrimonial home and her infant was left at the care of the OP and his family members. The OP tried to made her understand but the petitioner started to quarrel with the OP. She also threatened to implicate him in false criminal cases. The petitioner kept pressuring the OP for lavish life style which was beyond his means. In the month of January 2020 the petitioner left her matrimonial home with her minor child. Further the petitioner had extra-marital affair with one Rohit and the petitioner told the OP that she had conceived and she wanted to reside with said Rohit. The OP then lodged one GDE being no.1888 dated 19.03.2020. He also filed suit for dissolution of marriage whereby, he obtained a decree of divorce on 07.11.2022.

Petitioner has mentioned in her affidavit of asset and liabilities dated 14.02.2025 that she has no source of income. On the other hand, the OP filled his affidavit of assets and liabilities wherein he stated he earns Rs.13,000/- per month as tattoo artist. Both the parties have filed several documents including the bank statement.

Having heard the submission of the Ld. Advocate for both the parties and after going through the materials on the record, it is found from the written objection as well as the interim maintenance petition that it is an admitted fact that the petitioner being his wife is living separately in with her minor daughter which makes a prima facie case for grant of interim maintenance at this stage

so that the upbringing of the child is not hampered. OP admitted that he earns Rs.13,000/- per month as tattoo artist in his affidavit of assets and liabilities. OP also stated that he has obtained decree of divorce but no such document has been filed.

However, it is pertinent to mention here that Section 125 Cr PC is a secular provision. A divorced wife is also included in the term 'Wife'. As such it is immaterial whether petitioner was divorced by the Opposite Party or not. She is also entitled to claim maintenance from her husband. It was held in Criminal Appeal No.232-233 of 2015, Dr. Swapan Kumar Banerjee v. State of West Bengal and Another that a wife divorced by husband on grounds of desertion is entitled to maintenance.

It appears that the OP is an able bodied person and he is capable enough to earn. The allegations and counter allegations of the parties towards each other can not be decided at this stage without taking evidence.

It is a solitary principle of law that every husband is bound to maintain his wife and child. When a person entered into a bonding of marriage then it is presumed that he has willfully accepted the liability of maintaining of his wife. The object of section 125 of Cr.P.C. is to prevent vagrancy and destitution.

It is pertinent to mention the observation of Hon'ble Supreme Court of India, in Rajnesh Vs. Neha (2021) 2 SCC 324 where the Hon'ble Court was pleased to observed in its page 39 that

"VI. The directions in view of the Foregoing discussion as contained in Part B I to V of this Judgement we deemed it appropriate to pass the following directions in exercise of our powers under Article 142 of Constitution of India:

(d) Date from which maintenance to be awarded We make it clear that maintenance in all cases will be awarded from the date of filing application for maintenance.

Keeping in mind all the aforesaid discussion and the observation of the Hon'ble Supreme Court and in order to ensure the social justice keeping in mind the status and income of the OP his liability, I am of the view that an interim maintenance of Rs.2000/- each per month for the petitioner and her minor daughter is appropriate at this stage.

Hence, it is,

ORDERED

that the petition filed by the petitioner praying for interim maintenance is thus allowed on contest.

The OP is hereby directed to pay an interim maintenance of **Rs.2000/- each per month to the petitioner and her minor daughter** within the 10th day of every month, failing which the petitioner will be at liberty to put the order in execution. The arrear amount is to be paid by the OP within a period of **24 months in equal installments**. This order is effective from the date of filing.

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

To 04.02.2027 for evidence.

Typed, Printed & Corrected by me,

**(Pratigya Pradhan)
J.M, 3rd Court, Barrackpore.**

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