

M. Case No 188 of 2024
Smt. Madhumita Biswas vs. Ashim Biswas

Order dated. 20.6.25

Today is fixed for passing order.

Both the parties files hazira along with documents.

Record is taken up for passing order with regard to the interim maintenance petition filed by the petitioner.

The petitioner's case in a nut shell is that her marriage with the OP was registered on 6.10.04 as per the Hindu Marriage Act. At the time of marriage the parents of the petitioner gifted several gifts, gold ornaments, furniture etc. as per the demand of the OP and his parents. After marriage petitioner went to her matrimonial home and started her conjugal life with the OP. The marriage between the parties was consummated and out of the said wedlock two female child namely Arpita Biswas and Anamika Biswas were born on 31.3.07 and 2.2.09 respectively. After the birth of female children OP taunted and teased the petitioner regarding the birth of female children. Petitioner was not provided proper food nor any financial assistance to her and her minor children. OP and his family members abused the petitioner without any reason in front of the neighbour. OP always teased the petitioner for the birth of the female children. OP used to return home in a drunken condition and abused the petitioner and her children. In the year 2019 the petitioner came to know that the OP has illicit relationship with Archana Das and when the petitioner raised objection the OP assaulted and threatened her. On 26.4.21, the petitioner was assaulted and driven out of the matrimonial home along with her children. The petitioner took shelter at her parental home finding no other alternative. The petitioner has no source of income and she is fully dependent on her parents. The petitioner also lodged one Dum Dum PS case no.1181/21 u/s.498A/406 IPC against the OP. OP is a building contractor as well as supplier of materials wherefrom he earns Rs.50,000/-per month. He also earns extra income from his miscellaneous business. The OP has willfully neglected and refused to maintain the his minor daughters who are studying in XI and X. Petitioner has prayed for Rs.8000/- each per month as maintenance allowance for her minor daughters and Rs.10,000/- as litigation cost from the OP.

OP has filed his SC and WO and denied all the allegation made by the petitioner except marriage with the petitioner and the paternity of the minor children. It is submitted that the petitioner is a working lady and she earns Rs.25,000/- per month. The daughters of the parties were snatched from the custody of the OP without his consent. The petitioner has illicit relationship with one Kapil Mridha. The OP was assaulted by the petitioner on several occasions. OP is a daily labour working on a no work no pay basis and he earns Rs.10,000/- to Rs.12,000/- per month. Thus the daughters of the petitioner is not entitled to get any maintenance as such the OP has prayed for the rejection of the petition.

Petitioner has mentioned in her affidavit of asset and liabilities dt. 15.3.24 that she earns Rs.15,000/- per month as house keeping. She has filed the copy of the birth certificate of her daughters. The OP filed his affidavit of assets and liabilities where he stated that he earns Rs.12,000/- per month as daily labour. He has filed the copy of his passbook. No other documents have been filed by the parties as to their income.

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 along with her minor daughters which makes a prima facie case for grant of interim maintenance at this stage, so that their upbringing may not hamper. OP is an able bodied person and he is not suffering from any kind of disease or illness and he is capable enough to earn. It is admitted that the petitioner is earning Rs.15,000/- per month. She has only prayed interim maintenance allowance for her daughters. It is pertinent mention here that both the parents are equally liable to maintain their children. 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 **Rajnish 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 daughters of the petitioner by is sufficient 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 interim maintenance of **Rs.2,000/- each per month to the minor daughters** within the 10th day of every month as interim maintenance allowance, failing which the petitioner will be at liberty to put the order in execution. This order is effective from the date of filing. The arrear amount is to be paid by the OP in **equal installments**.

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

To 30.12.25 for evidence.

Typed, Printed & Corrected by me,

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

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