

M Case 457 of 2025**Order dated 05.08.2026**

Today is fixed for exparte order.

The Petitioner files hazira.

The record is taken up for passing order.

Petitioner's story in a nutshell:

The petitioner is legally married wife of the OP and marriage was solemnised on 11.01.2024 under the Hindu Rites and Customs and their said marriage was duly consummated. After solemnization of marriage the petitioner went to stay at her matrimonial house along with all her streedhan articles . But the OP and his family members used to torture the petitioner to bring more dowry.

That the petitioner had tolerated all the tortures inflicted upon her on the hope that everything will normalise in the future but the things did not change. That in the month of April 2022 the mother in law forced the petitioner to drink Phynile and when she objected for the assembling for different youths in the house at midnight. The OP has illicit relationship with one lady and she found him in a compromising situation with one of his relatives on 04.06.2024. On 04.07.2024 she was mercilessly assaulted by the OP and as such she lodged a written complaint before Barrackpore PS u/s 85/117(2)/351(2)/3(5) BNS against the OP and her in laws.

The petitioner is unemployed and is dependent on the mercy of her father.

The OP is working as sweeper in the Army camp an and he draws the total monthly salary of Rs. 20,000/- per month. The petitioner is claiming maintenance Rs.8,000/- per month for herself and Rs 10,000/- for litigation cost.

Decision with reason:

The facts and submissions are considered. The suit proceeded ex parte against the OP on and from 23.03.2026 as he failed to take steps even after service of summons. Petitioner has deposed as PW1. The PW1 has stated that I have filed this suit against my husband Sumit Balmiki. I got married to him on 11.01.2024 as per hindu Rites and Customs. My husband used to force me to drink and dance in front of his friends . When I saw my mother in law with my chacha sasur then they forced me to consume phenyle and hit me on my head. Then I called my family members and was admitted in Sagar Dutta Hospital for five days. Then I lodged a complaint before Barrackpore PS.

The OP is working as sweeper in the Army camp an and he draws the total monthly salary of Rs. 20,000/- per month

I have prayed maintainence amount for Rs. 10,000/- pm for myself .”

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

It is observed that inspite of service of summons and appearance, the OP failed to take steps and as such the suit proceeded ex parte against him on and from 15.10.2025. The unchallenged testimony of the

Petitioner is not contradicted by the other side. In all situations it is not possible for the wife to arrange the income proof of her husband. **Hon'ble High Court at Calcutta has held in Deepak Gupta vs. Binita Gupta [2011(1)CHN(CAL)755]** that the income of the husband is within the special knowledge of the husband. As such, the wife is not expected to prove the exact income of the husband. On the contrary, the settled law is that if the husband fails to prove his actual income by evidence, the contention of the wife regarding her husband's income should be presumed to be correct.

It is pertinent to mention the observation of Hon'ble Supreme Court of India, in Rajesh 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 and keeping in mind the status and income of the OP his liability, I am of the view that the maintenance of **Rs 3,000/- per month** to be paid to the wife for the maintenance of herself . The order is effective from the date of filing.

Now, considering the present market condition and proper living the maintenance allowance is hereby decided.

This Court has jurisdiction to try and pass order in this case u/s 125 Cr.P.C.

Hence it is,

ORDERED

that the maintenance petition u/s 125 of Cr.P.C. filed by Simran Balmiki is allowed ex-parte.

OP is directed to pay as sum of Rs 3,000/- per month to be paid to the wife for the maintenance of herself. The order is effective from the date of filing **and is payable within 10th day of each succeeding month.**

Dictated and corrected by me:

**Judicial Magistrate,
4th Court, Barrackpore**

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