

M. Case No. 726/2025
Smt. Riya Ghosh vs. Shri. Sumanta Ghosh

Order dated : 09.07.2026

Today is fixed for order with respect to the interim maintenance petition filed by the petitioner against her husband claiming interim maintenance of Rs.25000/- per month for herself and her son.

Both parties files hazira.

Heard both sides.'

The record is now taken up for passing the order.

The petitioner's case in a nut shell is that her marriage with the OP was solemnized on 04.06.2015 as per the Hindu rites and rituals. At the time of marriage, the parents of the petitioner had gifted several articles. After marriage the petitioner went to her matrimonial house and entrusted all her stridhan articles to the OP and his family members and started to reside together with the OP as husband and wife. The marriage between the parties was duly consummated and out of the said wedlock one male child namely Sourish Ghosh was born on 21.08.2017. After few years of marriage the OP started to inflict mental and physical torture upon the petitioner on instigation of his mother and the petitioner ignored the same but the tortured increased day by day. The OP also developed an illicit affair and the petitioner came to know about the same in the month of April 2025. The OP started inflict more mental and physical torture and drove the petitioner and her child out of the matrimonial home. The OP has been threatening the petitioner of dire consequences over the phone. The petitioner then took shelter at her parental house and since then the OP has not taken any information about them. It is submitted that the OP is an able bodied person and he has his won property inherited from his father. He also runs business and he is employed with WBSEDL and owns a toto and from all the sources he earns Rs.40,000/- to Rs.50,000/- per month. On the other hand the petitioner has no source of income. 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.25000/- per month for herself and her minor son as interim maintenance.

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 the petitioner never entrusted her stridhan articles upon the OP and his family members. OP as always performed his duties towards the petitioner and the minor son and never neglected them. It is also submitted that the OP belongs to a middle class family and the petitioner always demanded a luxurious life. The petitioner also pressurized the OP to stay at her parental house and whenever the OP refused the petitioner became furious and abused the OP in filthy languages. The father of the OP is suffering from ailments and he is in a bed-ridden condition. The petitioner never looked after her in-laws and she was busy with her boyfriend named Abhi. The petitioner showed no love and affection towards the OP. The OP also informed his in-laws about the affair of the petitioner but they never took any step and instead they encouraged the petitioner. As such the petitioner used to go to her parental house without informing anyone and the OP used to bring her back. The petitioner voluntarily left her matrimonial home with her minor child and she refused to return back to her matrimonial home. The petitioner also did not allow the OP to meet his minor son. The OP also sent one letter through his Ld. Advocate asking her to return to her matrimonial home but the petitioner did not send any reply. It is submitted that the OP is working with WBSEDL wherefrom he earns R.12,740/- per month. He also has to bear the medical expenses of his bed-ridden father. The petitioner herself has sufficient income from private tuition.

Petitioner has mentioned in her affidavit of asset and liabilities dated 26.08.2025 that she has no source of income and she stays at her parental house. On the other hand, the OP filled his affidavit of assets and liabilities wherein he stated that he works with WBSEDL on contractual basis wherefrom he earns Rs.12,740/- per month. The petitioner has filed the copy of the birth certificate of her child and the copy of her bank Passbook. OP has filed one copy of his payslip for the month of February, 2026, copy of the complaint, medical documents and the copy of the diary of the petitioner.

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 son which makes a prima facie case for grant of interim maintenance at this stage so that the upbringing of the child is not hampered. Legally and conceptually, adultery requires actual physical intimacy or sexual intercourse with someone other than your spouse. Private journaling is

just an internal processing of thoughts and memories. Thus the extract of the diary of the petitioner does not prima facie constitute the petitioner living in adultery. OP admitted that he earns Rs.12,740/- per month as in his affidavit of assets and liabilities and his pay slip. The question as to whether the petitioner voluntarily left the matrimonial house is a matter of trial and cannot be decided at this stage without adducing proper evidence. 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.3000/- each per month for the petitioner and her minor son till he attains the age of majority 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.3000/- each per month to the petitioner and her minor son till he attains the age of majority** within the 10th day of every month, failing which the petitioner will be at liberty to put the order in execution. This order is effective from the date of filing.

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

To **11.01.2027** for evidence.

Typed, Printed & Corrected by me,

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

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