

M. Case No 527 of 2022

Smt. Bandana Bhattacharyya @ Bhattacharjee vs. Sri Dibyendu Bhattacharjee

Order dated : 14.05.2025

Today is fixed for passing order.

Both the parties files hazira.

One money receipt of Rs.1000/- has been filed.

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 and solemnized on 16.06.2008 according to the Special Marriage Act and solemnized on 23.01.2009 at the parental house of the petitioner. After marriage she went to her matrimonial home and started her conjugal life with the OP. The marriage between the parties was duly consummated and out of the said wedlock one female child namely Disha Bhattacharjee was born on 28.11.2014 who is now studying in Class II. After few weeks of marriage the OP started to ask about the gold ornaments given to the petitioner from her parental house and in good faith the petitioner gave all her gold ornaments to the OP. During family gathering, when the petitioner asked about her gold ornaments the OP firstly denied of taking the same but later he accepted and he refused to return the gold ornaments to the petitioner. The OP then threatened of divorce if the petitioner demanded her gold ornaments. During the birth of the child, all the expenses was borne by the parents of the petitioner and the OP refused to take back the petitioner and her child to the matrimonial home. The petitioner took shelter at her parental house and after few months when the petitioner went to her matrimonial home along with her child the petitioner found out that no one was happy with the birth of the female child. The petitioner continued her marital life at her matrimonial home. The OP then started to subject her to torture for the demand of dowry. The parents of the petitioner gave money to the OP to save the marriage of their daughter but the demand of the OP kept on increasing. On 19.1.18, the petitioner was driven out of her matrimonial home. He also threatened her and as a result the petitioner filed one case being Ghola PS case no.215/21 dt.1.4.21 u/s.498A/406 IPC. OP works at Hindustan Unilever Ltd., as Team Leader in water division wherefrom he earns Rs.60,000/- per month as salary. The petitioner on the other hand has no independent source of income. The OP despite of having sufficient means he has neglected and refused to maintain the petitioner and her minor child. As such petitioner has prayed for an interim maintenance allowance of Rs.15,000/- each per month for herself and her minor daughter.

OP denied all the allegation made by the petitioner except marriage with the petitioner and the paternity of the minor child. It is submitted that no demand was made by the OP. The petitioner instead pressurized the OP to purchase gold ornaments for her. The OP submitted that all the medical expenses were borne by the OP during the pregnancy of the petitioner. After the birth of the child the parents of the petitioner without any intimation took the petitioner and her minor daughter from the hospital. When the OP called them, they told him that the petitioner would return with her child after few days. The petitioner stopped coming to her matrimonial home after the birth of the child and when the OP asked her to return back she refused. OP is an employee of Hindustan Unilever Ltd and he earns Rs.20,000/- per month from which he has to maintain his aged parents. The petitioner willfully left the matrimonial home and filed a false case against the OP. As such, the OP has prayed for rejection of the interim maintenance petition.

Petitioner has mentioned in her affidavit of asset and liabilities dt.21.6.22 that she has no source of income. From the affidavit of assets and liabilities of the OP it is found that he earns Rs.21,000/- per month as a team leader at Hindustan Unilever Ltd. OP has filed one visiting card, photographs and his salary slip for the month of April, 2025. He has also filed his medical documents, copy of the insurance policy and his bank statement and his salary slip for the month of March, 2022.

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 daughter which makes a prima facie case for grant of interim maintenance at this stage, so that her 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. No evidence has come before this court to see that petitioner is having her own source of income though OP has claimed the same. 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 perdaughter 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 **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 keeping in mind the status and income of the OP his liability, I am of the view that an interim maintenance of Rs.3000/- per month for the petitioner and Rs. 2000/- per month to the minor daughter is to be paid by the OP.

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.3000/- per month for the petitioner and Rs. 2000/- per month to her minor daughter** 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 arrears 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 07.11.25 for evidence

Typed, Printed & Corrected by me,

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

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