

M. Case No 982 of 2023
Smt. Pinki Roy vs. Sri Susanta Roy

Order dated. 6.3.25

Today is fixed for passing order.

Both the parties files hazira.

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 she was married to the OP on 10.12.10 according to Hindu Rites and Customs. Out of the said wedlock one male child namely Priyangshu Roy was born on 4.8.12. At the time of marriage the father and the relatives of the petitioner gave various household articles and ornaments as stridhan articles and cash of Rs.10,000/- as per demand of the OP and his family members. OP started to inflict mental and physical torture upon the petitioner for demand of money and when the petitioner raised objection then OP subjected her to torture. Petitioner used to do all the household work and she was not provided proper food and medical assistance at her matrimonial home. OP is a habitual drunker and gambled and spent all his earning. When petitioner raised objection the OP assaulted her brutally. In the month of February, 2022 petitioner was driven out from her matrimonial home along with her minor child. Thereafter petitioner lodged and FIR before Belghoria PS against the OP and other in laws. Since then petitioner is living in her parental house with her minor child. Petitioner has no source of income and passing her days in great hardship. On the other hand, OP is an able bodied person and works as tailor wherefrom he earns not less than Rs.30,000/- per month. The OP has intentionally and willfully refused and neglected to maintain the petitioner and her minor daughter. The petitioner has claimed Rs.10,000/- per month for herself and Rs.8,000/- per month for her minor child as interim maintenance.

The OP by filing composite show cause and written objection denies all the allegation made in the record and admits the fact of marriage and the paternity and prays for dismissal of the petition. OP has stated in his WO that OP and his family members never demanded anything from the petitioner and her family members. The petitioner always refused to do the household works and treated her mother in law as maid servant. Petitioner used to inflict mental and physical torture upon the OP. OP stated that he never drank alcohol or gambled in his lifetime and he never assaulted the petitioner at any point of time. OP came to know that petitioner was having an illicit affair with another man. When OP inquired about the same then the petitioner became furious and abused the OP in filthy languages. On 23.3.20 petitioner left her matrimonial home along with her child at her own will and accord. OP made several attempts to bring back his wife and child but the petitioner refused to return her matrimonial house. Petitioner lodged a false case against the OP and his family members. OP stated that petitioner runs a grocery shop wherefrom she earns Rs.30,000/- per month and petitioner also cooks food for some mess in the locality and wherefrom she earns Rs.20,000/-. On the other hand, OP works as tailor at Mas Sarada Textiles, Belghoria and he earns approximately Rs.12,000/- per month. OP also stated that he has to look after his old mother apart from himself.

Petitioner has mentioned in her affidavit of asset and liabilities dated 15.12.2023 that she has no source of income and she is totally dependent on her parents. She also stated that the child is suffering from physical disabilities and is under regular treatment. On the other hand, the OP filled his affidavit of assets and liabilities where he stated that he earns Rs.12,000/- per month as tailor at Maa Sarada Textile. OP has filed the copy of his bank statement along with the original photo album. The petitioner has filed the copy of the I.Q certificate of her child.

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 and her minor son is living separately which makes a prima facie case for grant of interim maintenance at this stage so that the upbringing of the minor child is not hampered. OP has claimed that the petitioner has her own source of income but no such document has been filed. Further the minor child of the petitioner has some disabilities. 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 **Rajnesb 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/- per month to the petitioner and Rs.1500/- per month for her minor son as interim maintenance.

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.2000/- per month to the petitioner and Rs.1500/- per month to her minor son** 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 within a period of **24 months in equal installments.**

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

To 11.09.2025 for evidence.

Typed, Printed & Corrected by me,

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

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