

Misc Case No. 114/2025(CIS No.118/2025)

CNR No.: WBPU06000959-2025

Present:- Smt. Sanjukta Bhattacharya

Judicial Magistrate 2nd Court, Raghunathpur, Purulia

J.O Code: WB01346

Order dated 15-01-2026

Today is fixed for passing interim order.

Both sides take steps.

The record is, thereafter, taken up for passing the necessary order.

Brief facts at the backdrop of this instant petition is discussed in a nutshell.

The petitioner /Nilu Bauri filed an interim petition u/s-144 of Bharatiya Nagarik Suraksha Sanhita(herein after referred as BNSS for this sake of convenience) claiming interim maintenance for herself to the tune of Rs.5,000/-(Rupees Five Thousand only) per month and further Rs 2,000/-(Rupees Two thousand only) per month from the Opposite Party,Manik Bauri.

The case set forth by the petitioner is that, the petitioner lady was married to the Opposite Party as per Hindu rites and customs on 05-07-2023. It is the case of the petitioner that, after one to two months of marriage, the parents of the petitioner lady was subjected to both physical and mental torture for want of dowry . That the said marriage was consummated as she had given birth to one female child. That the petitioner lady endured the pain silently hoping for a blissful conjugal life in future.However, the extent of torture aggravated day by day and on 07-05-2025 the Opposite Party assaulted mercilessly and threatened her with dire consequence ; and finding no other alternative, she took shelter at her paternal house.That since the date, the petitioner is residing at her paternal house and leading life of vagrancy. That, the Opposite Party thereafter, till date, did not take any information about her nor provided any sought of maintenance towards her and as such, it has become difficult for her to sustain her livelihood. It is furthermore alleged that, the Opposite Party is an able bodied man and is engaged as a businessman at Kolkata dealing with plywood factory besides acquiring having immovable properties from where he altogether earns Rs.20,000/-(Rupees Twenty Thousand only) per month. On the other, the petitioner lady has no independent source of income and as such prayed for being entitled to interim maintenance.

The Opposite Party, whereas, in his written objection denied all the allegations made by the petitioner lady. According to him, the interim petition filed by the petitioner u/s-144 of BNSS. is neither maintainable in law nor infact. The Opposite Party admitted the factum of marriage with petitioner lady and birth of the female child , borne out of lawful wedlock but denied any exchange of dowry of any said numerous presents at the time of marriage. It is his specific contention that, the petitioner on her sweet will desrtded the company of her husband and went on to reside at her paternal house at her paternal house at village Arrah . That Opposite Party made several attempts to bring his wife and child back, but she refused to return back. It is particularly averred that , the Opposite Party works as a mere daily labour wherefrom he earns Rs 5000/-(Rupees Five Thousand only) to Rs 6,000/-(Rupees Six Thousand only) per month and with that income , is not possible for him to sepearate maintain both of them . It is furthermore contended that, as the petitioner lady is staying away from him out of her own sweet will, and as such she is dis-entitled to claim the interim maintenance.

It is now well settled that affidavits filed by the parties are sufficient to decide the question of interim maintenance. To get an order of maintenance allowance, the petitioner has to primarily prove that:

- 1. That the petitioner lady is the legally wedded wife of Opposite Party.**
- 2. Opposite Party has failed and neglected to maintain the petitioner lady and their minor daughter inspite of having sufficient means.**
- 3. Petitioner is unable to maintain herself.**

From perusal of record, it is clear that for considering the interim maintenance petition at this, the first of the ingredients of getting an order of interim maintenance allowance, prima facie factum of marriage in between the parties must be established. Nothing prima facie transpires there is dissolution of marriage in

between the opposite party and petitioner lady and as such admittedly, marital bond is still subsisting in between them.

The dispute and differences cropped up between the parties as stated by the petitioner lady solely on account of alleged further dowry demand and alleged torture inflicted are dramatically opposite to the rival contentions raised by the opposite party. The above reasons mentioned in the pleadings are question of fact and hence those matters including factum of desertion by the petitioner cannot be decided at this stage without analysing the evidence adduced at the time of trial.

The next question that arises, is whether the Opposite Party has sufficient means or not?

The statute is clear on the aspect that, the object of interim maintenance is based on social justice principle and to prevent the petitioner from vagrancy and destitution. Now, coming to the academic discussion, it is prudent to analyse that the word “sufficient means” occurring in section 144 BNSS corresponding to section 125 of Cr.PC, 1973 does not signify any visible means such as real property or definite employment. If a man is healthy and able bodied, he must be held to possess the sufficient means to support his legally wedded wife and children.

In this case, prima facie as apparent, children are lying in the custody of the opposite father and that is the reason, relief of maintainnace is claimed only in respect of the wife. petitioner lady had claimed that her husband is engaged in plywood business at Kolkata and recieves benefits from other immovable assets from where he earns Rs.20,000/-(Rupees Twenty Thousand only) per month but she did not file any single scrap of paper to substantiate the said fact. On the contrary, the Opposite Party had presented the rival claim that, he is a mere daily labour earning Rs 5000/-(Rupees Five Thousand only) to Rs 6,000/-(Rupees Six Thousand only) per month but he failed to produce prima facie any income related document. The materials on record prima facie is silent regarding the fact, whether the opposite party suffers from any kind of physical disability. Now, it would be not out of place to mention that, as earlier stated, the rival claim pertaining to the petitioner's alleged voluntary desertion cannot be adjudged finally at this stage. Now, as per the well settled principle, a husband is under bounden duty to maintain his legally wedded wife and minor child. Now, given the circumstance, mere bringing the plea Opposite Party has only a meagre earning capacity does not in any way exonerate him from his statutory and moral responsibility towards his wife.

To note further on this issue, Hon'ble Supreme Court in the case of Bhuwan Mohan Singh versus Meena & Ors has held that “Be it ingeminated that section 125 of the Code of Criminal Procedure (for short “the Code”) was conceived to ameliorate the agony, anguish, financial suffering of a woman who left her matrimonial home for the reasons provided in the provision so that some suitable arrangements can be made by the Court and she can sustain herself and also her children if they are with her. The concept of sustenance does not necessarily mean to lead the life of an animal, feel like an unperson to be thrown away from grace and roam for her basic maintenance somewhere else. She would have lived in the house of her husband. That is where the status and strata come into play, and that is where the obligations of the husband, in case of a wife, become a prominent one. In a proceeding of this nature, the husband cannot take subterfuges to deprive her of the benefit of living with dignity. Regard being had to the solemn pledge at the time of marriage and also in consonance with the statutory law that governs the field, it is the obligation of the husband to see that the wife does not become a destitute, a beggar. A situation is not to be maladroitly created where under she is compelled to resign to her fate and think of life “dust unto dust”. It is totally impermissible. In fact, it is the sacrosanct duty to render the financial support even if the husband is required to earn money with physical labour, if he is able bodied. There is no escape route unless there is an order from the Court that the wife is not entitled to get maintenance from the husband on any legally permissible grounds.”

In view of the discussion made above and regards being had to the provisions of law and other materials on record, in my considered view, petitioner being the legally married wife is entitled to get maintenance allowance for herself as she has no ability to maintain herself and was able to prima facie satisfy that, her husband/Opposite Party did not provide any maintenance subsequent to filing of the case.

Now the question what would be the quantum of maintenance.

Be it noted, it is generally expected that an estranged wife has the tendency to mention an exaggerated income of the Opposite Party and similarly the rival side also, has the tendency to suppress his actual income. The duty of the Court to take a balance view keeping those factors in mind. The Opposite Party being an able bodied person, he is bound to maintain his still wedded wife and minor child.

Considering the present market value of the essential commodities and also considering the status of the parties as well the breakup of the necessary expenses for sustainnence of livelihood as well upon careful perusal of the Affidavit of Assets and Liabilities furnished by both sides, I think unless an amount of Rs. 3, 000/- (Rupees Three thousand only) each per month for petitioners is awarded, the petitioner lady will be prejudiced. I would like to further hold, since the petitioner not received any financial benefit from the Opposite Party, I am inclined to pass this order from the date of filing of this case.

Hence, it is,

ORDERED

that the instant application for interim maintenance of petitioner dt 08-09-2025 is allowed in part on contest.

Opposite Party is hereby directed to make payment of interim maintenance in favour of the petitioner lady to the tune of **Rs.3,000/- (Rupees Three Thousand only)** each per month total amounting to **Rs 6,000/- (Rupees Six Thousand only)** per month, till the disposal of this instant Misc case.

Opposite Party is hereby directed to make such payment within 10th day of each English calendar month. In case of infraction of this order, the petitioner is at liberty to proceed against the Opposite party and put this order into execution in accordance with law through court.

This order will take effect from the date of filing the case till the final order.

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

To 17 -02-2026 for Evidence.

Dictated and corrected by me

Sd/-

Judicial Magistrate
2nd Court, Raghunathpur, Purulia.

Dictated and corrected by me

Sd/-

Judicial Magistrate
2nd Court, Raghunathpur, Purulia.