

Order No.06, dated 30.06.2026.

Today is fixed for passing order of the Misc Case.

Parties files hajira.

Record is taken up for passing order.

Submitting this instant petition under Section 36 of the Special Marriage Act, 1954 (hereinafter simply referred to as the Act), the petitioner of this miscellaneous case has prayed for a direction upon the respondent to pay her sum of Rs.20,000/- *per mensem* for herself.

Petitioner has specified therein that she got married with the opposite party on 24.02.2017 and the said marriage was registered before the Marriage Registrar, as per the provision of Special Marriage Act. Later on the social marriage ceremony of the parties was also held. After marriage, the petitioner started to reside at her matrimonial home. In the wedlock, a daughter was born to the parties on 16.11.2017. It is the categoric allegation of the petitioner that she is at present earning Rs.18,000/- approximately per month by giving tuition. On the other hand, the respondent/husband is an employee in a Call Center at Sector – V, Salt Lake and earning to the tune of Rs.35,000/- to 40,000/- per month. According to the averment of the petitioner that she was thrown out of her matrimonial home on and from the month of November, 2019, for which she is residing at her parental home along with her minor daughter. But the Opposite party/husband does not provide any financial support towards them. The petitioner also initiated criminal case being Number Entally Police Station Case No.188/2020 U/Sec.498A/406 of IPC against the respondent/husband and his family members. Besides, the petitioner has also initiated a Misc. Case being No.362/2000 before Ld. J.M, 6th Court, Howrah, wherein an award of maintenance to the tune of Rs.2,500/- per month was allowed in favour of the petitioner and Rs.1,500/- per month to her minor daughter. As the living standard of the petitioner is ever increasing due to inflation of the market, hence, this instant petition.

The opposite party/husband by filing Written Objection has denied all the contentions as put forth by the petitioner/wife, save and except their marriage and paternity of the minor daughter of the petitioner. It is the specific contention of the opposite party/husband that the petitioner/wife is a teacher in Julien Day School at Bankara, District : Howrah and gets a salary of Rs.60,000/-. Moreover, the opposite party/husband has averred that the petitioner/wife has stayed at her matrimonial home for total 60 days with the respondent/husband. Whenever, the husband/

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respondent went to his in-laws place at Santragachi, he was abused by the family members of the petitioner and the petitioner also refused to come back with him. Besides, the mother of the opposite party is suffering from serious illness and the opposite party/husband to incur her medical expenses. Thus, the opposite party/husband has prayed for dismissal of this instant Misc. Case.

Heard Ld. Advocate on behalf of both sides.

Ld. Advocate on behalf of the petitioner has relied upon the following decision as reported in:-

1> (1997) 7 SCC 7.

Also perused the statements of Assets and Liabilities as filed by both the parties to this case along with the documents.

At the very outset, it is pertinent to point out that while considering a claim for interim maintenance the Court has to keep in mind the status of the parties and the income and property of both the applicant and non applicant. It is also needless to mention that it is important to ensure that the maintenance awarded to the applicant is sufficient to enable the applicant to live in some degree of comfort as in the matrimonial home, but it should not be exorbitant. Also provisions for food, clothing, shelter, medical attendance and treatment of the applicant should be borne in mind (**Manish Jain Vs. Akanksha Jain AIR 2017 SC 1640**).

The Court must take into consideration the status of the parties and the capacity of the spouse to pay maintenance and whether the applicant has any independent sufficient income for her support (**Sh. Bharat Hedge Vs. Smt. Saroj Hedge**).

In **Rajathi Vs. C. Ganeshan, 1999 (6) SCC 326**, it was observed by Hon'ble Apex Court that the statement of the wife that she is unable to maintain herself would be sufficient and it would be for the husband to prove the contradictory to the said claim.

Coming to the case in hand, it is well settled legal proposition that once a person has a capacity to earn, he cannot refuse or neglect to maintain the petitioner/wife, as the opposite party/husband has admitted that he is an able bodied person and has some income of his own.

In light of the settled legal position I am of the considered opinion that the petitioner is entitled to get alimony pendente lite and expenses of the proceedings

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from the opposite party/husband, as from the materials on record, I find that the petitioner withdrew herself from the society of the opposite party. Simultaneously, I would hasten to add that at this stage it is not possible to comment about the conduct of the parties during their conjugal life together, which is a matter of full fledged trial. But it is apparent that in the circumstances the petitioner might have a reasons to live separately from the respondent.

So far as the quantum alimony pendente lite is considered, I am of the considered opinion in view of the respective assertions of the parties as made in affidavit of assets and liabilities Rs.10,000/- per mensem would be sufficient as maintenance pendente lite, as admittedly the petitioner is earning of her own.

Hence, it is,

ORDERED

That the instant application under Section 36 of Special Marriage Act being Misc Case No.15 of 2025 is hereby allowed on contest, without any order as to costs.

The O.P is directed to pay a sum of *Rs.10,000/- per mensem* for the petitioner as maintenance alimony *pendete lite* from the date of filing of the Misc Case till disposal of the Mat Suit No.01/2024 towards maintenance of the petitioner/wife.

The maintenance amount of each month shall be paid by the O.P to the petitioner within the 10th day of each succeeding month as per English calendar.

The arrear amount of maintenance pendente lite shall have to be liquidated in twenty four (24) equal monthly installments along with the current maintenance, the first of which is to be paid on or before 10.07.2026.

In case of default, the petitioner shall be at liberty to realise the said amount in accordance to law.

Be it stated here that the petitioner will get the higher amount of the award of maintenance in case any other maintenance proceedings is pending in any other forum, by following the guidelines of Hon'ble Apex Court as laid down in **Rajnesh Vs. Neha**.

D/C by me,

ADJ, FTC-II, Sealdah.

ADJ, FTC-II, Sealdah.