

Misc Case- 28 of 2025

Order dated: 12.06.2025

Today is fixed for hearing in respect of an application for interim maintenance filed by the petitioner/wife against the OP/husband.

Both the petitioner/wife and the OP/husband are present by filing haziras. Both the Ld. Counsels for the petitioner and the OP made their submission at the hearing.

The case record is taken up for passing order.

OP has filed written objection against the original application of the petitioner and denied all the material allegations leveled against him. OP relies upon the said written objection by placing his argument in respect of petition under consideration.

The case of the petitioner/wife, in a nutshell, is that her marriage with the OP/husband was solemnized 19 years ago as per Hindu rites and customs. At the time of their marriage her father presented gold ornaments, utensils and cash of Rs.50,000/-. After marriage petitioner went to her matrimonial home at Ramnarayanpur and resided with the OP as husband and wife. Out of the wedlock they have three sons namely Suman Mondal, Subam Mondal and Akshay Mondal. while residing, the petitioner came to know that OP has illicit relation with his sister-in-law namely Rinku Mondal. when she raised protest to it she was physically tortured by the OP and put her in mental agony. Lastly on 07.01.2025 when she again raised her voice to such act of the OP then she was physically and mentally tortured and driven out of the matrimonial home with her three sons. Finding no other alternative she took shelter at her paternal home. Since the day of separation, OP as neither taken information about her or her minor son. Petitioner is an helpless lady having no independent source of income. On the other hand OP is a fit and able bodied person having dwelling house, pond and bastu. He runs business of different kind. He earns monthly Rs.40,000/- to Rs.50,000/- from all sources. Accordingly, petitioner claims monthly interim maintenance for herself to the tune of Rs.10,000/- and for her three minor sons to the tune of Rs.5,000/- each.

In the written objection, the OP denied all the material allegations leveled against him. OP admitted his marriage with the petitioner as well as the paternity of the three children. OP contends that petitioner was unable to adjust with his poor financial condition and for that reason she without the person of OP used to

go to different State of this country to earn money. OP tried to bring her back but to no effect. She wanted to live the life of an independent lady. So she without his permission has been working in different State in different capacity. As the petitioner has voluntarily left the company of the OP, so she is not entitled to any maintenance. OP is a day labour earning Rs.3,000/- to Rs.4,000/- per month.

Both the application of the petitioner as well as the written objection of the OP are supported by verification. Further more, both the parties have filed their respective affidavits of assets and liabilities in compliance with the observation of the Hon'ble Apex Court in the case of Rajnesh vs Neha. The veracity of the allegations and counter-allegations of each parties can only be ascertained at the stage of trial on the basis of evidence to be put forward by them.

The marriage between the petitioner/wife and the OP/husband has not been denied and the paternity of the the minor sons of petitioner is also not challenged by the OP/husband. It appears that the minor son namely Subam Mondal has been residing with the OP and the same transpire before this court on his physical appearance today. Thus, this court on query with the said child is convinced to find that he is residing with the OP. Petitioner did not produce any document in support of her claim regarding present monthly income of the OP/husband. On the other hand, the OP has also not produce any document. But he is found to be fit and able bodied person.

Pending adjudication of the present case on the basis of further evidence to be adduced by both the parties during trial, the petitioner/wife being the legally married wife is entitled to claim interim maintenance from the OP/husband for herself and her minor son and as such, I am inclined to allow the application of the petitioner/wife claiming interim maintenance for herself and her minor son.

Having regard to the facts and circumstances of the case, the purpose of the legislation, the present requirements of the petitioners as could be obtained from the pleadings and other materials, I am of the view that an interim maintenance of Rs. 2000/- per month for the petitioner/wife and Rs. 1,500/- per month for her two minor sons namely Suman Mondal and Akshay Mondal until further order would be reasonable.

Hence, it is

ORDERED

that the application for the interim maintenance filed by the petitioner/wife against the OP is allowed on contest but without cost. The petitioner is entitled to get an interim maintenance allowance of Rs. 2,000/- per month for herself and Rs. 1,500/- per month for her two minor sons namely Suman Mondal and Akshay Mondal from the date of this order. Petitioner is not entitled to get any interim maintenance for her minor son Subam Mondal.

The OP/husband is directed to pay the said maintenance allowance to the petitioner by the 7th of each succeeding month as per English calendar.

In case of default, the petitioners shall be at liberty to get the order executed as per law.

Fix **12.08.2025** for evidence.

A copy of this order is to be given to the petitioners free of cost.

A.C.J.M.
Diamond Harbour
J.O.Code : WB01221