

M Case- 119 of 2025

Order dated: 01.11.2025

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 petitioner files xerox copy of document by way of petition. Let the same be kept to the case record.

The case record is taken up for passing order.

OP had 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 on 15.02.2009 as per Hindu rites and customs and their marriage was registered on 25.04.2011. At the time of their marriage her father presented dowry as per the demand of OP. Dowry was presented. After marriage, petitioner went to her matrimonial home and resided with the OP as husband and wife. Out of their wedlock, she begotten a daughter named Sukanna Maity. She alleged that while residing at the matrimonial home, she was tortured physically and mentally by O.P. in different manner for demand of Rs.1 lakh and gold ornaments. OP is in defence service and he in drunken condition without her consent physically and mentally tortured her. She still resided with him just hoping for better future. She even complaint of such behavior of the OP to his department but his behavior did not change. Petitioner also came to know that the OP has illicit relation with one Manoka Hazra. When she protested she was assaulted. Finally on 12.02.2025 at 12 noon she was compelled to leave the matrimonial home as she was tortured and to shelter at her paternal residence. Since the day of separation, OP has not taken information about her and their minor. 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 and landed property. He is posted at Delhi and earns Rs.80,000/- per month from all

sources. Accordingly, petitioner claims monthly interim maintenance for herself to tune of Rs.20,000/- and for her minor daughter to the tune of Rs. 20,000/- per month.

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 minor child. OP contends that his marriage with the petitioner was the out come of their love affair so the question of presenting dowry does not arise. Petitioner has made an omnibus allegation against him just to harass. The OP alleged that petitioner desire to live an independent life without any interference and live whimsical life. Then he protested he was assaulted by her. Petitioner wants to take the benefit of the law in favour of the women and has poor mentality. She has voluntarily left his company. OP is in Defence Service posted as Habildar and draws Rs.58,000/- per month as take home salary. His parents are dependent upon him. He is always willing to live his conjugal life with the petitioner. Thus, prayed for rejection of interim maintenance.

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 . It appears that petitioner and OP are residing separately. Allegation and counter allegation has been made which is the subject matter of trial. OP has not filed any document to show that he has been maintaining petitioner during such days of separation. Petitioner has 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 and has admitted to be in Defence Service. 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 as such, I am inclined to allow the application of the petitioner/wife claiming interim maintenance for herself and for her minor daughter.

Having regard to the facts and circumstances of the case, the purpose of the legislation, the present requirements of the petitioner as could be obtained from the pleadings and other materials, I am of the view that an interim maintenance of Rs. 5000/- per month each for the petitioner/wife and their minor daughter 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. Rs. 5000/- per month each for the petitioner/wife and their minor daughter from the date of filing of this case i.e 07.04.2025.

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 petitioner shall be at liberty to get the order executed as per law.

Fix 09.12.2025 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