

In the Court of Judicial Magistrate, 2<sup>nd</sup> Court  
Diamond Harbour, South 24 Parganas (WB)  
**Present: Smt. Priyanka Zimba, WBS**  
**(WB01293)**

**MAINTENANCE. CASE NO. 244/2024**

**CIS NO. 244/2024**

**Janehara Bibi (Kha)**

**Vs.**

**Majid Ali Kha**

**Order dated 17-10-2025:**

Today is fixed for filing receipt of payment of cost and further hearing.

Parties file their respective haziras.

O.P files receipt showing payment of cost.

Now the matter is taken up for further hearing.

Heard both sides in full in respect of interim maintenance petition.

The case record is taken up for passing order.

It appears that the interim maintenance petition has been filed by the petitioner praying for interim maintenance of Rs 20,000/- per month for herself and Rs. 10,000/- per month for her minor son total being Rs. 30,000/- per month.

Perused the case record and material therein.

Considered.

This is a case instituted u/s 144 of BNSS by the petitioner namely Janehara Bibi (Kha) against the O.P named Majid Ali Kha.

It is the petitioner's case that she is the wife of the O.P and they also have two children, one son and one daughter. The daughter of the parties has attained majority and is married and the son is minor. It is the case of the petitioner that after few years of marriage she was asked to bring money from her father's house and on her failure, she was subjected to mental and physical torture. She was not given proper food and clothes and the O.P used to come home in drunk condition and assault her. It is further stated

that the O.P also had illicit relation with another woman. The O.P expressed his intention to marry the said woman. When the petitioner raised objection, she was assaulted by the O.P. The petitioner however, continued her conjugal life hoping for better future.

On 01-05-2024, the O.P assaulted the petitioner brutally and snatched all her stridhan articles and drove her out of her matrimonial house. On 06-05-2024 when the petitioner went to her matrimonial house, the O.P threatened to kill her if she returns. Thereafter the Petitioner informed the matter before Dholahat P.S. It is stated that the O.P had restrained and confined his son with him but subsequently, the said minor son has come to the petitioner and has been residing with her. The O.P has not taken any information about them and not paid any maintenance to them. Since then the petitioner is residing at her father's house with her child whereas the O.P is leading his conjugal life with another woman.

The petitioner has no income of her own to maintain herself where as the O.P is a solvent person having landed and residential properties and pond. The O.P cultivates fruit in his land and also sells cattles and from all sources he earns about Rs. 50,000/- per month. Despite of having sufficient means the O.P has failed and neglected to maintain the petitioner and her son. Hence, the case and the instant application.

The O.P appeared before this court and filed his show cause petition and declaration of assets. The O.P has not filed any written objection against the interim maintenance petition. Ld. Counsel for the O.P has raised strong verbal objection during hearing and submitted that the petitioner had illicit relation with another man and she used to talk to him over the phone. He further stated that he never bought any mobile phone for her but she has a mobile phone given by the said another man. Ld. Counsel further submit that their minor son has come back to him and is residing with

him at present. The petitioner has left her matrimonial house voluntarily without informing him due to her illicit relation and therefore she is not entitled to get any maintenance. It is further stated that the O.P is a day labour and earns only Rs. 3000/- to 4000/- per month and he has been taking care of his son as well and his old aged parents. The O.P prays for rejection of the interim application.

Ld. Counsel for the petitioner during hearing has admitted that the minor son of the parties are residing with the O.P at present but he has denied other allegations against the petitioner.

I have heard the Ld. Counsel for the petitioner as well as gone through the interim petition, show cause petition, the declaration of assets as well as the documents filed by the parties.

On perusal of the declarations by the parties, I find that the marriage and the paternity of the children is admitted by the O.P. However, it is alleged that the petitioner has left her matrimonial house voluntarily. On the other hand, the petitioner has alleged that the O.P has driven her out of her matrimonial house. None of the said point can be proved without adducing evidence and at this stage, this Court cannot hold a mini trial for the same. It appears that the marriage between the parties was solemnized almost 25 years ago and not a single document has been filed by the petitioner in support of her contention. She has not even filed the document to show that she filed case against her husband which she has alleged in her application. The object of section 144 of the BNSS is to prevent vagrancy and destitute. However, at this stage from the materials on record, I find no urgency and *prima facie* case in favour of the petitioner to grant her interim maintenance. Moreover her disclosure of assets and liabilities reflect that she has no liabilities at present and therefore, I am not inclined to allow her prayer for interim

maintenance at present. All such facts will be considered after the appreciation of evidence.

Hence, it is,

**ORDERED**

That the petition for interim maintenance filed by the petitioner is hereby rejected on contest without any order of cost.

The application is accordingly disposed of.

To **07-03-2026** for evidence.

D/C

**S/d-**  
Judicial Magistrate,  
2<sup>nd</sup> Court, DDH.

**S/d-**  
Judicial Magistrate,  
2<sup>nd</sup> Court, DDH.