

In the Court of Judicial Magistrate (2nd Court)
Diamond Harbour, South 24 Parganas
Present: Sri UTTAM DAS, WBSJ (WB01219)

CASE NO:--M 557/2023
CIS Mr. Maintenance 559/2023

Interim Maintenance Petition filed on 28/12/2023

And disposed off on 23/07/2024

Gayetri Haldar vs. Bacchu Haldar

ORDER DATED 23/07/2024

Today the matter has been fixed for hearing of interim maintenance application filed by the petitioner against her husband.

Ld advocate for the both sides are present.

Now the record is taken up for hearing.

Heard Learned Advocate for the petitioner and the O.P.

From the pleadings of the parties the following facts are found as admitted facts- 1. parties are married couple; 2. they have one daughter and one son out of their marriage; 3. their daughter is now married and son has attained age of majority; 4. parties are residing separately 5. their son is residing with the petitioner. Therefore, there is no need of discussion over this issue.

It is alleged on the part of the petitioner that the Op is in relation with one lady namely Sukla Sardar and when she raised objection, she was faced tremendous torture and then OP drover her out. Thereafter, her husband married said Sukla Sardar. Now her husband is not maintaining her.

The OP has countered the above allegation stating that no torture was caused upon the petitioner. The petitioner was not ready to stay with him. She did not adapt the situation at her husband's house. She had relation with one Tarapada. As such she left him.

Neither party filed any income proof of others but contended handsome income of others.

Considered.

Having heard the submission and have perused the assets and liabilities declaration filed by the parties.

Now the point is as to whether the petitioner is entitled to get interim maintenance for herself as prayed for.

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From the record as well as submission it transpires that OP runs his second family. The petitioner resides with her one major son. It also does not transpire that whether their sons are school going student or not. In this juncture it can be said that their son is capable of earn their livelihood and also able to maintain the petitioner. If that be so, inspite of that OP can not be escaped from his liability to maintain his wife as he married again depriving the petitioner. However, it has been alleged again OP that in call of other woman, he drove her wife and he married again and also Op raised question about the chastity of the petitioner without any valid proof.

Considering the above I am of the humble view that the OP has tendency to avoid the petitioner as well to maintain petitioner. Therefore, the Court is prima facie inclined to believe the case of the petitioner.

As regards determination of the amount this court thinks that in the background of her husband's income who is a able bodied persons and being hawker, and considering the basic requirements of the lady, with an amount of Rs 2,500/- per month, the lady can do mitigate the necessity of her attempt to survive and to continue with the litigation for achieving final objective concerning her prayer for granting monthly maintenance under Section 125 of the Code of Criminal Procedure.

In view of the Decision of Hon'ble Court the petitioner is entitled to receive the interim maintenance from the date of filling of the petition ie., on 28/12/2023.

Hence it is,

ORDERED

that the prayer of the petitioner for interim maintenance is hereby allowed against the opposite party on contest and without any cost. The opposite party is directed to pay to the petitioner the amount of Rs 2,500/- per month as interim maintenance allowance

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from the date of filling of this petition ie., from 28.12.2023 till disposal of the case. The opposite party is further directed to pay to the petitioner the ordered amount within 7th day of each succeeding English Calender Month either by hand or by money order or depositing in any bank account in the name of petitioner failing which petitioner shall have liberty to put the order into execution. The arrear amount will be paid by six installment and first installment will be due on 22.08.2024.

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

Fixing 13/02/2025 for PWS.

Typed by

JM 2nd Court DDH.

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(JO Code: WB01219)