

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

CASE NO:--M 547/2019  
CIS Mr. Maintenance 547/2019

Sima Purkait vs. Arabinda Purkait

ORDER DATED 23/03/2023

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 a female child who is now four years old; 3. parties are residing separately. Therefore, there is no need of discussion over this issue.

It was alleged that the OP/husband used to cause torture upon the petitioner/wife for the demand of sum cash of Rs 50,000/- and when the petitioner or her father failed satisfy the said demand, she was driven out. Prior to such driven out, she had to suffer inhuman behavior at her matrimonial house. She has also leveled allegation against her husband of illicit relation with the wife of his younger brother.

The OP has countered the above allegation stating that no torture was caused upon the petitioner in c/w any demand of dowry. The petitioner has filed this case only to live separately from the OP. She has left him at her own. The petitioner always pressurized him to stay at her parents house and when the OP refused such proposal, the petitioner left him.

Neither party filed any income proof of others. It is claim and counter claim that the parties have no source of income but both of them claimed the 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 well as her child.

In first place it is to be recorded here that being father, the OP has agreed to maintain his child as per his financial capacity.

From the affidavit regarding assets and liabilities declaration as well as from the pleadings of the parties it transpires that the petitioner has alleged that she was driven out as she failed to satisfy demand of her husband. From the records, the Court does not find any prima facie case of urgency. The purpose of allowing interim maintenance 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.

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The other facts which were denied by the both parties, are to be decided after receiving evidences from the respective parties.

Considering the manner of prayer as interim measures as well as above discussion, this Court is of the view that she filed this petition casually. Moreover, she failed to convince the Court that she is distress and without immediate monetary support she would failed to continue with the case.

It is also fact that the petitioner is to take care of their minor child and till now OP did not pay any amount to them at his own accord.

Considering the above, the Court is of the view that petitioner is not entitled to get order of maintenance in the form of interim measurement. But petitioner needs financial support to raise their child it is the father of the child who is duty bound to support his offspring. And in the meantime if any parties shows interest for mediation to settle their dispute, the Court will obviously welcome the step.

As regards determination of the amount this court thinks that in the background of her husband's income as pleaded in the application and considering the basic requirements of the lady, an amount of Rs 1500/- per month, the lady can do mitigate the necessity to raise her child.

Hence it is,

ORDERED

that the prayer of the petitioner for interim maintenance is hereby allowed in part in respect of child only against the opposite party on contest and without any cost. The opposite party is directed to pay to the petitioner the amount of Rs 1500/- per month as interim maintenance allowance from the date of this order for their child only. The opposite party is further directed to pay to the petitioner the ordered amount within 7<sup>th</sup> 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 defence of OP will be truck off.

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

Fixing 23/08/2023 for PWS.  
Dict. & Corrected

JM 2<sup>nd</sup> Court DDH.

JM 2<sup>nd</sup> Court DDH.