

MR. Case 167/2023**Order****Dated : 22.08.2025**

Today the record is fixed up for passing order in respect of the prayer for interim maintenance.

The factual scenario of the petitioner's case is such that she is the legally wedded wife of the Opposite Party, and their marriage was solemnized on 07/05/2016 according to social and religious rites and customs. After marriage, the petitioner went to reside in her matrimonial home. Initially, she was treated with affection for some time, but soon thereafter, the Opposite Party started subjecting her to physical and mental cruelty with unlawful demands for dowry. Ultimately, on 01/06/2019, she was brutally assaulted and driven out of her matrimonial home. Finding no other option, the petitioner lodged a criminal case for cruelty for dowry demand against her husband and his family members at Chakulia Police Station, and also filed a maintenance case being M.R. Case No. 119/2019 before the Learned Court at Islampur. Subsequently, through a village-level compromise, the Opposite Party took her back to the matrimonial home with an assurance that there would be no further disputes. Relying on such assurance, the petitioner did not pursue the said case, and accordingly, the Learned Court was pleased to dismiss the matter for default.

However, within a few days of such compromise, the Opposite Party again resumed his acts of cruelty by demanding ₹1,00,000 as dowry. The petitioner silently endured the harassment in order to save her marital life. Eventually, on 10/12/2023 at about 8 A.M., the Opposite Party physically assaulted the petitioner with slaps, fists, and blows, and further attempted to strangle her with the intention to kill. On her cries for help, the local people rushed in and rescued her from the clutches of the Opposite Party, who thereafter drove her out of the matrimonial home. The petitioner, being helpless, took shelter at her parental home.

It is further stated that during the said incident, the Opposite Party outraged the modesty of the petitioner by pulling and dragging her saree and blouse, thereby causing her humiliation. Moreover, he forcibly snatched away a silver necklace weighing about 5 bhoris (approx. 58 gms) from her neck.

Subsequently, on 15/12/2023, the Opposite Party along with his family members came to the petitioner's parental home on the pretext of a compromise. However, during discussions, the Opposite Party categorically stated that he would not resume marital life with the petitioner unless his monetary demand was fulfilled.

The Opposite Party has since then completely neglected to provide maintenance or take any care of the petitioner. The petitioner is a simple rural woman with no independent source of income, and she is unable to maintain herself and her minor son. On the other hand, the Opposite Party is a healthy, able-bodied, and hardworking person having 20–25 bighas of cultivable land, earning approximately ₹30,000 to ₹40,000 per month. Despite having sufficient means, he has willfully neglected and refused to maintain the petitioner and her minor child, who are now living in extreme hardship.

In these circumstances, the petitioner has claimed a sum of ₹20,000/- per month for herself and ₹12,000/- per month for her minor child, totaling Rs. ₹32,000/- per month as maintenance.

On the other hand, the Opposite Party by way of written objection denied and refuted the material allegations leveled against him. He submits that after the demise of his first wife, he contracted marriage with the petitioner on 17.05.2016 in accordance with Islamic rites and customs and thereafter took her to his matrimonial home with the bona fide intention of leading a peaceful conjugal life. However, the petitioner, instead of adjusting in the matrimonial home, often pressurized the Opposite Party to abandon his house situated in the district of Malda and to permanently shift to Chakulia in the district of Uttar Dinajpur. The Opposite Party, being the only earning member, found it extremely difficult to comply with such unreasonable demand, as he has to take care of his aged and ailing mother as well as his children, all of whom are entirely dependent upon his meagre income.

When the Opposite Party refused to succumb to the petitioner's pressure of leaving Malda, the petitioner lodged a written complaint on 01/06/2019 at Chakulia Police Station, where a case under Section 498(A) IPC was registered and the same is still pending. Not only that, the petitioner also filed a petition under Section 125 Cr.P.C. in the year 2019, and since then she has been residing at her parental home. It is further submitted that the present petition for maintenance is not maintainable either in law or on facts, as the earlier M.R. Case No. 113/2019 filed by the petitioner was already dismissed for default.

The Opposite Party further submits that he is a poor man and merely a daily wage labourer. For his livelihood, he is often compelled to travel to the south-western states in search of work. On days when he manages to get work, he earns around Rs. 200–250 per day, out of which he has to maintain his entire family. He has no landed property or any other source of stable income whatsoever. On the contrary, the petitioner is skilled in preparing "bidi" at her parental home and earns approximately Rs. 250 per day from the same.

Ventilating such case, the opposite party prayed for dismissal of the prayer for interim application.

I also peruse the Affidavits of Asset and Liabilities filed by both the parties.

At this interlocutory stage, the Court is not required to go into a detailed appreciation of evidence or to render a conclusive finding upon the truthfulness of the rival allegations. The limited scope of consideration is whether the petitioner, being the legally wedded wife and the minor son, are entitled to some reasonable amount towards their sustenance till the final adjudication of the case.

It is a settled principle of law that the husband has a statutory obligation to maintain his wife and minor child who are unable to maintain themselves. The mere plea of low income by the husband cannot be accepted as an absolute defence to escape such liability. At the same time, the earning capacity of both sides, the standard of living, and the need for immediate sustenance must be balanced fairly.

In the present case, even if the contention of the Opposite Party is accepted that he earns as a daily wage labourer, it cannot be overlooked that the petitioner, being the wife, has no assured income and is compelled to stay at her parental home with the minor child. Though it is alleged that she can earn by making bidi, such work is seasonal and cannot be considered as stable income to maintain herself and her son in a dignified manner. The minor child also requires regular expenditure for food, clothing, education and medical needs.

Considering the financial constraints projected by the Opposite Party and the requirement of the petitioner and the minor son for their basic sustenance, this Court is of the view that an order of interim maintenance would be just and proper.

Accordingly, it is ordered that the Opposite Party shall pay a sum of Rs. 2500/- (Rupees Two Thousand Five Hundred) per month to the petitioner-wife and Rs. 1500/- (Rupees One Thousand Five Hundred) per month for the maintenance of the minor son, aggregating to Rs. 4000/- per month, as interim maintenance till final disposal of this case.

Consequently, the claim partly succeeds.

Hence, it is;

ORDERED

that the interim prayer U/Sec. 125, Cr.P.C is allowed on contest.

The O.P. is directed to pay Rs. **2,500/-** per month in favour of the Petitioner **Jinnatun Nisha** and Rs.**1,500/-** per month in favour of her son namely, **Amirul Haque** as monthly maintenance.

This order be effective from the date of filing of this application **i.e. 22.12.2023.**

Opposite party has a liberty to pay the arrear amount of maintenance by four (4) monthly installments. But, such arrear amount must be paid by the opposite party within December, 2025. Opposite Party is further directed to pay the aforesaid monthly maintenance to the petitioners by the 10th day of every succeeding English calendar month. In failure of which the petitioner will be at liberty to execute order by the process of law.

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

To **15.09.2025** for Evidence.

Dictated and corrected by

**Judicial Magistrate,
Islampur, Uttar Dinajpur**

**Judicial Magistrate,
Islampur, Uttar Dinajpur
(JO Code WB 01389)**