

Court No. 6
(265719)

02.09.2025
(AD 21)
(S. Banerjee)

CO 3188 of 2025

Dilip Kumar Bag
Vs.
Arpita Bag

Mr. Partha Pratim Roy
Mr. Sayantan Hazra

... for the petitioner

This application under Article 227 of the Constitution of India is at the instance of the husband and is directed against order no. 12 dated September 5, 2024 passed by the learned Additional District Judge, 2nd Court at Uluberia in Misc. Case No. 2 of 2023. By the order impugned the application under Section 24 of the Hindu Marriage Act was allowed.

Mr. Roy, learned advocate appearing for the petitioner submits that the wife/opposite party herein filed an application under Section 125 of the Code of Criminal Procedure for maintenance which stood rejected by an order dated April 22, 2024. He, therefore, submits that the entitlement of the opposite party to get maintenance has been rejected by a competent forum and, therefore, this court should interfere with the order impugned.

It is not in dispute that the application under Section 125 of the Code of Criminal Procedure was rejected by the learned Additional District Judge, 2nd Court at Uluberia by an order dated April 22, 2024. Merely because of the fact that the prayer for maintenance under Section 125 of the code has been rejected, the same cannot be a ground for rejecting the prayer for alimony pendente lite in a proceeding under Section 24 of the Hindu Marriage Act in connection with a matrimonial proceeding. It is well-settled that though the wife may pray for maintenance under the provisions of different statutes, the amount of maintenance awarded in one proceeding is adjustable and the higher amount has to be paid. Since the opposite party has applied for alimony pendente lite under Section 24 of the Hindu Marriage Act in a matrimonial suit filed by the husband/petitioner herein, this court is of the considered view that rejection of the application under Section 125 of the Cr.P.C. cannot be a ground for rejecting the application under Section 24 of the Hindu Marriage Act as the right to pray for alimony pendente lite under the Hindu Marriage Act is independent of the right to claim maintenance under Section 125 of the Criminal Procedure Code. This court finds that the learned trial judge has directed payment of amount of Rs. 2,000/- only per month on

account of alimony pendente lite with effect from the date of filing of the application.

For all the reasons as aforesaid, this court is not inclined to interfere with the order impugned.

At this stage Mr. Roy, learned advocate appearing for the petitioner prays for extension of time to deposit the arrear amount.

The petitioner shall pay the current alimony at the rate as indicated in the impugned order with effect from the month of September, 2025 within the 10th day of each succeeding month as per the English calendar. The entire arrear of alimony with effect from the date of filing of misc. case till the month of August, 2025 shall be paid by the petitioner in two equal installments and the first of such installments shall be paid by the petitioner on or before September 22, 2025 and the balance amount shall be paid by the end of the month of October, 2025.

With the above observation, CO 3188 of 2025 stands disposed of.

(Hiranmay Bhattacharyya, J.)