

15.12.2025  
Item No.11  
Ct. No. 6  
Aloke/sg

**CO 3948 of 2025**

**Arundhati Karmakar (nee Bhattacharya)**  
**Vs**  
**Abhijit Karmakar**

Mr. Siddhartha Sarkar  
Mr. Sourav Gupta  
... for the petitioner

1. Affidavit-of-service be kept with the records. Despite service, none appears on behalf of the opposite party/husband.
2. The petitioner is aggrieved by the order dated September 24, 2025, passed by the learned Additional District Judge, Fast Track Court no. 4, Barrackpore, in Matrimonial Suit No. 189 of 2021.
3. By the order impugned, the learned Court allowed the application under Section 36 of the Special Marriage Act upon directing the husband to pay a sum of Rs.10,000/- per mensem as *alimony pendent lite* and Rs.20,000/- as litigation costs to the wife, within tenth of each succeeding month according to English calendar.
4. The order was made effective from the date the same was passed, that is, September 24, 2025. The learned Court erred in directing payment of the maintenance *pendent lite* from the date of the order. It is well settled that maintenance *pendent lite* has to be awarded from the date of the application. The wife had

filed the application on July 25, 2023. Reference is made to the decision of the Apex Court in ***Rajneesh V. Neha*** reported in **(2021) 2 SCC 324** paragraphs 96-101, 110-113 and 131 are quoted below:-

**“(a) From the date of application**

**96.** The view that maintenance ought to be granted from the date when the application was made, is based on the rationale that the primary object of maintenance laws is to protect a deserted wife and dependent children from destitution and vagrancy. If maintenance is not paid from the date of application, the party seeking maintenance would be deprived of sustenance, owing to the time taken for disposal of the application, which often runs into several years.

**97.** The Orissa High Court in *Susmita Mohanty v. Rabindra Nath Sahu* [*Susmita Mohanty v. Rabindra Nath Sahu*, (1996) 1 OLR 361] held that the legislature intended to provide a summary, quick and comparatively inexpensive remedy to the neglected person. Where a litigation is prolonged, either on account of the conduct of the opposite party, or due to the heavy docket in courts, or for unavoidable reasons, it would be unjust and contrary to the object of the provision, to provide maintenance from the date of the order.

**98.** In *Kanhu Charan Jena v. Nirmala Jena* [*Kanhu Charan Jena v. Nirmala Jena*, 2000 SCC OnLine Ori 217 : 2001 Cri LJ 879] , the Orissa High Court was considering an application under Section 125 CrPC, wherein it was held that even though the decision to award maintenance either from the date of application, or from the date of order, was within the discretion of the court, it would be appropriate to grant maintenance from the date of application. This was followed in *Arun Kumar Nayak v. Urmila Jena* [*Arun Kumar Nayak v. Urmila Jena*, 2010 SCC OnLine Ori 30 : (2010) 93 AIC 726] , wherein it was reiterated that dependants were entitled to receive maintenance from the date of application.

**99.** The Madhya Pradesh High Court in *Krishna v. Dharam Raj* [*Krishna v. Dharam Raj*, 1991 SCC OnLine MP 6 : (1993) 2 MPJR 63] held that a wife may set up a claim for maintenance to be granted from the date of application, and the husband may deny it. In such cases, the court may frame an issue, and decide the same based on evidence led by parties. The view that the “normal rule” was to grant maintenance from the date of order, and the exception was to grant maintenance from the date of application, would be to insert something more in Section 125(2) CrPC, which the

legislature did not intend. Reasons must be recorded in both cases. i.e. when maintenance is awarded from the date of application, or when it is awarded from the date of order.

**100.** The law governing payment of maintenance under Section 125 CrPC from the date of application, was extended to HAMA by the Allahabad High Court in *Ganga Prasad Srivastava v. Addl. District Judge, Gonda* [*Ganga Prasad Srivastava v. Addl. District Judge, Gonda*, 2019 SCC OnLine All 5428 : (2019) 6 ADJ 850] . The Court held that the date of application should always be regarded as the starting point for payment of maintenance. The Court was considering a suit for maintenance under Section 18 of the HAMA, wherein the Civil Judge directed that maintenance be paid from the date of judgment. The High Court held that the normal inference should be that the order of maintenance would be effective from the date of application. A party seeking maintenance would otherwise be deprived of maintenance due to the delay in disposal of the application, which may arise due to paucity of time of the court, or on account of the conduct of one of the parties. In this case, there was a delay of seven years in disposing of the suit, and the wife could not be made to starve till such time. The wife was held to be entitled to maintenance from the date of application/suit.

**101.** The Delhi High Court in *Lavlesh Shukla v. Rukmani* [*Lavlesh Shukla v. Rukmani*, 2019 SCC OnLine Del 11709] held that where the wife is unemployed and is incurring expenses towards maintaining herself and the minor child/children, she is entitled to receive maintenance from the date of application. Maintenance is awarded to a wife to overcome the financial crunch, which occurs on account of her separation from her husband. It is neither a matter of favour to the wife, nor any charity done by the husband.

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**(b) From the date of order**

**109.** The judgments hereinabove reveal the divergent views of different High Courts on the date from which maintenance must be awarded. Even though a judicial discretion is conferred upon the court to grant maintenance either from the date of application or from the date of the order in Section 125(2) CrPC, it would be appropriate to grant maintenance from the date of application in all cases, including Section 125 CrPC. In the practical working of the provisions relating to maintenance, we find that there is significant delay in disposal of the applications for interim maintenance for years

on end. It would therefore be in the interests of justice and fair play that maintenance is awarded from the date of the application.

**110.** In *Shail Kumari Devi v. Krishan Bhagwan Pathak* [*Shail Kumari Devi v. Krishan Bhagwan Pathak*, (2008) 9 SCC 632 : (2008) 3 SCC (Cri) 839], this Court held that the entitlement of maintenance should not be left to the uncertain date of disposal of the case. The enormous delay in disposal of proceedings justifies the award of maintenance from the date of application. In *Bhuwan Mohan Singh v. Meena* [*Bhuwan Mohan Singh v. Meena*, (2015) 6 SCC 353 : (2015) 3 SCC (Civ) 321 : (2015) 4 SCC (Cri) 200], this Court held that repetitive adjournments sought by the husband in that case resulted in delay of 9 years in the adjudication of the case. The delay in adjudication was not only against human rights, but also against the basic embodiment of dignity of an individual. The delay in the conduct of the proceedings would require grant of maintenance to date back to the date of application.

**111.** The rationale of granting maintenance from the date of application finds its roots in the object of enacting maintenance legislations, so as to enable the wife to overcome the financial crunch which occurs on separation from the husband. Financial constraints of a dependent spouse hamper their capacity to be effectively represented before the court. In order to prevent a dependant from being reduced to destitution, it is necessary that maintenance is awarded from the date on which the application for maintenance is filed before the court concerned.

**112.** In *Badshah v. Urmila* *Badshah*  
*Godse* [*Badshah v. Urmila Badshah Godse*, (2014) 1 SCC 188 : (2014) 1 SCC (Civ) 51], the Supreme Court was considering the interpretation of Section 125 CrPC. The Court held : (SCC p. 196, para 13)

“13.3. ... purposive interpretation needs to be given to the provisions of Section 125 CrPC. While dealing with the application of a destitute wife or hapless children or parents under this provision, the Court is dealing with the marginalised sections of the society. The purpose is to achieve “social justice” which is the constitutional vision, enshrined in the Preamble of the Constitution of India. The Preamble to the Constitution of India clearly signals that we have chosen the democratic path under the rule of law to achieve the goal of securing for all its citizens, justice, liberty, equality and fraternity. It specifically highlights achieving their social justice. Therefore, it becomes the bounden duty of the courts to advance the cause of social justice. While giving interpretation to a particular provision,

*the court is supposed to bridge the gap between the law and society.”*

**113.** It has therefore become necessary to issue directions to bring about uniformity and consistency in the orders passed by all courts, by directing that maintenance be awarded from the date on which the application was made before the court concerned. The right to claim maintenance must date back to the date of filing the application, since the period during which the maintenance proceedings remained pending is not within the control of the applicant.

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**131.** We make it clear that maintenance in all cases will be awarded from the date of filing the application for maintenance, as held in Part B — IV above.”

5. With regard to the quantum awarded, I do not find any reason as to why the learned Court was of the view that Rs.10,000/- per month would be adequate for the wife. The affidavit-of-assets of the husband disclosed that the monthly income of the husband was Rs.1,26,000/- an odd. The wife resides with her parents. The accommodation available at her parental house cannot be a ground to ignore the expenses to be incurred for an accommodation. The expenses towards rent should have been factored in, while deciding the issue. Moreover, the wife has elaborated as to why Rs.18,400/- should be paid to her. The Court has not recorded why such amount should not be paid. The Court has also not considered that the wife is to enjoy a life of dignity and comfort which she was enjoying during her stay in her matrimonial home. Her husband earns more than Rs.1,26,000/- per month. Her prayer for maintenance

*pendent lite* to the extent of Rs.18,400/- ought to have been granted.

6. The revisional application is allowed, by granting Rs.18,400/- per month as maintenance *pendent lite*, till the disposal of the matrimonial suit or until further orders whichever is earlier and the said amount shall be paid from the date of the application, that is, July 25, 2023. The arrears i.e., from the date of the application till November 2025 shall be liquidated in 12 equal monthly instalments along with the monthly maintenance to be paid as per the direction of this Court. The current payment shall commence from the month of December, 2025 and shall be paid within 10<sup>th</sup> January, 2026. The first instalment towards arrear shall be paid along with the maintenance for the month of December, 2025, that is, within January 10, 2026. Thereafter, the instalments shall be paid along with monthly maintenance for each month within 10<sup>th</sup> of the succeeding month till the entire arrear is liquidated. The monthly maintenance shall be continued to be paid as directed. There is no interference with the litigation cost which has awarded as the litigation cost. The money which has been awarded in any other proceedings shall be set off against this amount of Rs.18,400/-, meaning thereby, the husband will pay a total sum of Rs.18,400/- per month.

7. The revisional application is thus disposed of.

8. Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

**(Shampa Sarkar, J.)**