

CRR 1400 of 2021
(Via video conference)

In re : An application under Section 482 read with Sections 397/401 of the Code of Criminal Procedure, 1973.

In the matter of : Subrata Podder

..... Petitioner

Mr. Kushal Kr. Mukherjee

.....For the Petitioner

Dr. Jyotirmay SomFor the Respondent

By the order impugned dated April 16, 2021, learned Magistrate in the Court below granted an interim maintenance of Rs. 6000/- per month to the opposite party from the date of the filing of the case.

It has been submitted by the learned advocate for the petitioner that the learned Magistrate has passed the order impugned without following the mandate of the Supreme Court given in the case reported at **2020 (4) Crimes 291 (SC) 291 (Rajnish v. Neha)**.

By referring to the said judgment, the learned advocate for the petitioner submits that at the time of granting the interim maintenance, the affidavits of disclosure of assets and liabilities of the parties have to be considered by the learned Magistrate, but in this case, the said procedure has not been followed by the learned Magistrate. Therefore, the order of the learned Magistrate is liable to be set aside.

I find substance in the argument of the learned advocate for the petitioner, but at the same time, the petitioner's obligation to maintain her wife cannot be lost sight of.

I dispose of the revisional application with a direction upon the learned Magistrate to decide the application for interim maintenance within a period of six months from date. In passing the order of interim maintenance, the learned Magistrate shall adopt the procedure as mandated by the Supreme Court in **Rajnesh case**(*supra*). Till such prayer for interim maintenance is decided, the petitioner will go on paying Rs. 4000/- per month to the opposite party as her maintenance.

It is made clear that I have not gone into the merit of the maintenance application, I have granted Rs. 4,000/- per month to the petitioner so that she can sustain herself until her prayer for interim maintenance is decided by the learned Magistrate.

Accordingly, **CRR 1400 of 2021** is disposed of.

All parties are to act on the server copy of this order duly downloaded from the website of this court.

(Kausik Chanda, J.)