

IN THE HIGH COURT AT CALCUTTA

Criminal Revisional Jurisdiction

Before:

The Hon'ble Mr. Justice Jay Sengupta

C.R.R. 3320 of 2019

Dilip Meddya @ Medya

Vs.

The State of West Bengal & Anr.

For the Petitioner : Ms. Pampa Dey (Dhabal).

Heard on : 22.02.2021

Judgement on : 22.02.2021

Jay Sengupta, J. :

1. This is an application challenging an order dated 30.09.2019 passed by the learned Judicial Magistrate, 3rd Court, Bishnupur, in Misc. Case No.90/19, R 88/19 under Section 125 of the Code.
2. Learned Counsel appearing on behalf of the petitioner submits as follows.
The petitioner was employed in the Indian Army. He retired in 2019 and presently draws a monthly pension of about Rs.22,000/- (Rupees Twenty Thousand only) and odd. But, the learned Magistrate directed payment of maintenance allowance under Section 125 of the Code at the rate of Rs.5,000/- (Rupees Five Thousand only) per month for the wife and

Rs.4,000/- (Rupees Four Thousand only) each for her two minor children.

This far exceeds the Rule of $1/5^{\text{th}}$ to $1/3^{\text{rd}}$ of income to be paid as maintenance allowance. The main application under Section 125 of the Code is still pending.

3. Despite service, no one appears on behalf of the private opposite party/wife.
4. I have heard the submissions of the learned Counsel appearing on behalf of the petitioner and have perused the revision petition.
5. The wife's case, as would appear from the application filed under Section 125 of the Code, is that the husband was earning about Rs.50,000/- (Rupees Fifty Thousand only) to Rs.70,000/- (Rupees Seventy Thousand only) per month from his pension and from his landed property.
6. One of the pension documents annexed to the revision petition reveals that the petitioner is about 44 years old. Therefore, he was employed with the Army for a fixed tenure. The petitioner's case is not one of superannuation at the age of 60 years or so.
7. Being an able-bodied man and presumably, a qualified one, enough to get a job in the Army, the petitioner is supposed to maintain his wife and minor

children at the standard that they would have enjoyed had they lived with the petitioner. The petitioner cannot shirk this responsibility by treating pension as his only source of income.

8. In view of the above, I do not find any illegality in the impugned order.
9. However, in the interest of justice, the main proceeding under Section 125 of the Code ought to be expedited.
10. Accordingly, the revisional application is dismissed. However, the learned Trial Court shall conclude the proceeding under Section 125 of the Code as expeditiously as possible without granting any adjournment to any of the parties, preferably within a period of six months from the next date of hearing.
11. The learned Trial Court shall be at liberty to insist that the husband and the wife filed their respective affidavits of assets and liabilities in terms of the directions passed by the Hon'ble Apex Court in the case of ***Rajnesh Vs. Neha and Another***, (2020) SCC Online 903. During pendency of the matter before the learned Trial Court, the husband shall continue to pay interim maintenance at the rates as awarded by the learned Trial Court.
12. With these observations, the revisional application is disposed of.

13. Urgent photostat certified copy of this order may be supplied to the parties expeditiously, if applied for.

(Jay Sengupta, J.)

Sl. 36/NB