

CRR 873 of 2015

In the matter of:- **Debabrata Das**

.....Petitioner

versus

Barnali Das & Ors

.....Opposite parties.

None appears on behalf of the parties.

The petitioner in the revisional application has assailed the order dated 17.02.2014 passed by learned Additional District & Fast Track Court-1, Barrackpore, in Criminal Revision Case No. 245 of 2014 affirming the judgement & order dated 30.05.2014 passed by the learned Judicial Magistrate, 2nd Court, Barrackpore in Misc case No. 167 of 2007.

The brief fact of the case is that the opposite party No. 1-wife filed an application under Section 125 of the Code of Criminal Procedure with a prayer for monthly maintenance for herself to the tune of Rs.3,000/-per month and Rs. 2,000/-per month for her minor daughter and Rs. 5,000/- as litigation cost. Upon consideration of materials on record the learned Judicial Magistrate, 2nd Court, Barrackpore allowed maintenance for the petitioner to the tune of Rs. 2,000/- per month and Rs. 1,500/- per month for her minor child. The petitioner challenged the said order passed by the Judicial Magistrate in Criminal Revision being No. 245 of 2014 and it was affirmed by Additional Sessions Judge, Fast Track, 1st Court, Barrackpore, 24-Parganas (North) vide order dated

17.12.2014. Being aggrieved by and dissatisfied with the said judgment and order, the petitioner has filed the present revisional application.

The petitioner has challenged quantum of maintenance granted in favour of opposite party No. 1-wife on two fold grounds. *Firstly*, he works as a servant in a house and earn Rs. 1,000/- per month and on the contrary the opposite party No. 1-wife has income of Rs. 8,000/- per month. *Secondly*, he has ailing aged mother and he has looked after her.

As far as the first ground is concerned although the petitioner asserted that opposite party No. 1-wife works as a sales girl at Milk depot and imparts tuition and doing tailoring jobs earns Rs. 8,000/- per month but he failed to produce any oral or documentary evidence pertaining to the income of the opposite party No. 1-wife. The petitioner has asserted that he has income of Rs. 1,000/-. However he has also not produced any documents in support of the same. In the present revisional application he has annexed document of income issued by one Mr. S.N. Chakraborty but before the trial Court neither he has produced the said document nor such fact has been proved by cogent evidence. Therefore, such grounds fall short of merits.

With regard to the second ground this Court finds that petitioner has not proved any document with regard to ailment of his mother.

The object of the provisions of Section 125 of the Code of Criminal Procedure is to prevent vagrancy and destitution. The

petitioner is able bodied and capable of earning and it is the obligation of the husband to maintain his wife and child. He cannot be permitted to plead that he is unable to maintain the wife and child due to financial constraints as long as he is capable of earning.

In the light of the above discussion, this court finds that the impugned judgment and order under challenge does not call for any interference and accordingly, the same is affirmed.

Accordingly, the present revisional application being **CRR 873 of 2015** is dismissed.

All connected applications, if any, also stand disposed of.

Interim order, if any, also stands vacated.

Urgent Photostat Certified copy of this order, if applied for, be supplied expeditiously after complying with all necessary legal formalities.

(Bivas Pattanayak, J.)