

Form J(1)

**IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction
Appellate Side**

**Present :
The Hon'ble Justice Bibek Chaudhuri**

C.R.R. 2622 of 2022

**Pramita Sen
Vs.
The State of West Bengal & Anr.**

**For the petitioner : Mr. Souma Subhra Roy, Adv.
Ms. Choyanika Singh, Adv**

Heard on : 17.08.2022

Judgment On : 17.08.2022.

Bibek Chaudhuri, J.

An application for interim maintenance filed by the petitioner against the opposite party in Maintenance Case No.600 of 2021 was rejected by the learned Chief Judicial Magistrate vide order dated 5th May, 2022 on the ground that the prayer for interim maintenance made by the petitioner for her minor child is the same as that of the main application for maintenance.

Considering the impugned order this Court is of the view that the impugned order is liable to be set aside at the outset even without a direction to the petitioner to serve notice to the opposite party.

I am surprised to note that the impugned order was passed by an Officer in the rank of Chief Judicial Magistrate. It is assumed that the concerned officer is promoted to the post of the Chief Judicial Magistrate after serving considerable period of time as Judicial Magistrate. This Court at least expects from a Judicial Officer in the rank of Chief Judicial Magistrate that the petitioner is entitled to claim maintenance and interim maintenance as the case may be according to her need. It is for the learned Magistrate to decide the quantum of interim maintenance. It is also noted that interim relief is prayed in consonance of the final relief. Therefore, an application for interim maintenance cannot be rejected solely on the ground that the petitioner claimed interim maintenance allowance at the rate similar to the prayer made in the main application under Section 125 of the Code of Criminal Procedure.

For the reasons stated above, the impugned order dated 5th May, 2022 is set aside.

The instant revision is allowed.

The learned Magistrate is directed to dispose of the application for interim maintenance filed by the petitioner on merit within 3 weeks from the date of communication of the order.

On bare perusal of the impugned order, this Court is of the prima facie view that the learned Chief Judicial Magistrate at Barasat

is required to be sensitized about the scope of interim application, interim prayer and interim relief in a proceeding under Section 125 of the Code of Criminal Procedure. Therefore, the learned District Judge, North 24-Parganas at Barasat is requested to have a sensitization/orientation discussion with the learned Chief Judicial Magistrate, Barasat and all the Judicial Magistrates at Barasat within 7 days from the date of communication of this order after days judicial work on a particular working day.

The learned District Judge, North 24-Parganas at Barasat be informed accordingly.

The petitioner is at liberty to act on the server copy of the order.

(Bibek Chaudhuri, J.)

**Mithun De/
A.R. (Ct).
SI No.36..
D/L.**