

18-02-2022  
Subha  
Item-38  
Ct -.34

IN THE HIGH COURT AT CALCUTTA  
Criminal Revisional Jurisdiction

**(Via video-conference)**

**C.R.R 3275 of 2019**

**In Re:** An application under Section 482 read with Section 401 of the Code of Criminal Procedure.

In the matter of : Habibur Rahaman @ Bakul

...Petitioner.

Mr. Sourav Chatterjee  
Ms. Surasri Baidya

..for the petitioner.

Mr. Manas Kumar Das

.....for the O. P. No.2.

Mr. S. G. Mukherji, Id. PP,  
Mr. Imran Ali,  
Mrs. Debjani Sahu

....for the State.

This court by an order dated 3<sup>rd</sup> February, 2022 passed in CRR 3569 of 2019 deprecated the process of filing affidavit of the witnesses at the time of examination-in-chief in the proceedings under Section 125 of the Code of Criminal Procedure.

Accordingly, necessary directions were passed. In view of the observations made therein, I direct the learned Magistrate to freshly record evidence with the witnesses on dock.

No form of affidavit should be encouraged as a substitute of oral evidence.

The same witnesses who are produced before the court by the applicant and the opposite party are to be examined in view of

the earlier directions passed in CRR 3569 of 2019.

However, the amount of maintenance so awarded being Rs.4000/-per month to the wife and Rs.2000/- per month to the minor son aggregating to a sum of Rs.6000/- per month shall continue till the learned Magistrate arrives at a fresh finding.

It is further directed that in case the learned Magistrate after recording of the evidence and assessing the same comes to a conclusion that there may be an alteration (increase, decrease or whether any amount should be awarded), the learned Magistrate would be at liberty to do the same.

With the aforesaid observations, the revisional application being CRR 3275 of 2019 is partly allowed.

Accordingly, the judgement and order dated 07.09.2019 is set aside.

Interim order, if any, is, hereby, vacated.

All pending applications, if any, in connection with the revisional application, are consequently disposed of.

All concerned parties are to act in terms of a website copy of this order duly downloaded from the official website of this court.

( Tirthankar Ghosh, J. )

.