

C.R.R 3179 of 2013

**In Re:- An application Article 227 of the
Constitution of India.**

In the matter of:-

Amitava Mitra.....petitioner.

Vs

Dipti Mitra

None appears on behalf of the petitioner.

The petitioner has preferred the present revisional application challenging the award of maintenance passed in favour of opposite party by learned Additional Chief Judicial Magistrate, Ranaghat, Nadia in Misc. Case No.187/2008 in a proceeding under Section 125 of the CrPC and affirmed by the Learned Sessions Judge, Nadia, on 21.01.2013, in Criminal Motion No.85 of 2012 as well as Misc. Execution No. 140(N) 12 under Section 128 of CrPC pending before the Learned Additional Chief Judicial Magistrate, Ranaghat, Nadia.

The factual matrix of the case is that the opposite party filed an application under Section 125 CrPC being Misc. Case no.187/08 claiming maintenance for herself. Upon hearing learned Additional Chief Judicial Magistrate, Ranaghat, Nadia, by order dated 28.06.2012, allowed maintenance in favour of the opposite party to the tune of Rs.4000/- per month. The petitioner challenged the aforesaid order before the Sessions Judge Nadia in Criminal Motion No.85 of 2012. The learned Sessions Judge Nadia, dismissed the aforesaid Criminal

Motion affirming the order passed by the Learned Additional Chief Judicial Magistrate , Ranaghat, Nadia in Misc. Case No. 187/08.

Being aggrieved by and dissatisfied with the impugned order passed by the Learned Sessions Judge, Nadia the petitioner has preferred the present revisional application.

From the impugned order it is undisputed that the opposite party is the wife of the petitioner. Upon considering the evidence on record the Learned Magistrate found the income of the petitioner to be Rs. 9170/- per month. Basing on such income the Learned Magistrate allowed maintenance in favour of the opposite party to the tune of Rs.4000/- per month. The aforesaid aspect has also been taken into consideration by the Learned Sessions Judge, Nadia. There is no such evidence that the opposite party has income of her own. Section 125 of the CrPC is a beneficial legislature to prevent destitution and vagrancy and the husband being an able-bodied person is duty bound to maintain his wife. In the aforesaid backdrop the aforesaid impugned order passed by the Learned Sessions Judge, Nadia does not call for interference.

Accordingly the present revisional application stands dismissed.

All connected applications stands disposed of.

Interim orders, if any, stand vacated.

Let a copy of this order be sent to the learned trial

court for information.

Urgent Photostat Certified copy, if applied for, be supplied to the appellants expeditiously after complying with all necessary legal formalities.

(Bivas Pattanayak, J.)