

**CALCUTTA HIGH COURT  
IN THE CIRCUIT BENCH AT JALPAIGURI**

**06.01.2022**

Sl. No. 21.  
Mithun/  
Ct.No.2.

**CRR/44/2021  
(Via Video Conference)**

In the matter of: **Debasish Adhikary**

**...petitioner.**

Mr. Subhasish Misra, Adv.,

...for the petitioner.

Mr. Aditishankar Chakraborty, Ld.A.P.P.  
Mr. Arun Kumar Sarkar, Adv.

...for the State.

The instant criminal revision is directed against an order dated 27<sup>th</sup> January, 2020 passed by the learned Sessions Judge, Cooch Behar in connection with Criminal Revision No.30 of 2019 affirming an order dated 18<sup>th</sup> September, 2019, passed by the learned Chief Judicial Magistrate, Cooch Behar in Misc. Case No.89 of 2018 under Section 125 of the Code of Criminal Procedure.

By passing the order dated 18<sup>th</sup> September, 2019, learned Chief Judicial Magistrate, Cooch Behar granted interim order of maintenance in favour of the wife/opposite party No.1 at the rate of Rs.7,000/- per month. The present petitioner being the opposite party/husband in the original proceeding under Section 125 of the Code of Criminal Procedure filed a revision against the said order before the learned Sessions Judge at

Cooch Behar. The learned Sessions Judge after hearing the parties disposed of the revisional application affirming the order passed by the learned Chief Judicial Magistrate at Cooch Behar. The said order is under challenge in the instant proceeding.

It is submitted by Mr. Misra, learned Counsel for the petitioner that the wife of the opposite party No.1 voluntarily left her matrimonial home. The petitioner never refused and neglected to maintain her. At the time of admission of the revision by the learned Sessions Judge, he passed an order directing the petitioner to pay maintenance allowance at the rate of Rs.7,000/-. The petitioner is ready and willing to pay such amount. If the petitioner is asked to pay a sum of Rs.7,000/- per month, it will cause grave hardship to him.

The question as to whether the wife of the petitioner was driven away from her matrimonial home or she on her own accord left her matrimonial home voluntarily is an issue to be considered at the time of final hearing of Misc. Case No.89 of 2018.

It is found from the impugned order that the petitioner earned Rs.35,000/- per month. The learned Chief Judicial Magistrate on due consideration of the basic needs of the opposite party No.1 and the income of the petitioner held at an interim stage that the petitioner is liable to pay interim maintenance at the rate of Rs.7,000/- per month to the opposite party No.1.

The order of the learned Chief Judicial Magistrate as well as the learned Sessions Judge at Cooch Behar does not suffer from any illegality or material irregularity. There was also no jurisdictional error in the impugned order. Therefore, I do not find any reason to spill ink over the impugned order dated 7<sup>th</sup> January, 2020.

For the reasons stated above, the instant revision is devoid of any merit and dismissed on contest, however, without costs.

**( Bibek Chaudhuri, J. )**