

19.09.2023
Item No.57
Ct.No.34
dc.

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION**

C.R.R. 817 of 2023

In the matter of : **Prosenjit Das** ... Petitioner.

Mr. Iqbal Hossain,
Mr. Kaushik Chandra Gupta ... For the Petitioner.

The petitioner is aggrieved by the order dated 19.12.2022 wherein the learned Additional Chief Judicial Magistrate, Baruipur in M. Case No. 134 of 2018 was pleased to allow the *ad interim* maintenance thereby awarding Rs.5000/- per month to the wife and Rs.5000/- per month to the minor child aggregating to a sum of Rs.10000/-. The foundation of such maintenance so awarded was on the basis that the present petitioner/husband happened to be the Upper Division Clerk of Rabindra Bharati University.

Mr. Iqbal, learned advocate appearing for the petitioner submits that the petitioner is saddled with huge liabilities and his monthly income has been exaggerated. If the petitioner takes out an application under Section 127 of the Code of Criminal Procedure, in that case, the learned Magistrate will allow the petitioner to adduce evidence in respect of his liabilities and his capacity to pay such amount of Rs.10000/- per month.

The learned Magistrate would be at liberty to take a fresh decision on the basis of the evidence so adduced. Such application under Section 127 of the Code of Criminal Procedure be disposed of within a period of three months from the date of filing of the same.

At this stage, the petitioner is directed to pay the amount till the application under Section 127 of the Code of Criminal Procedure is disposed of by the learned Additional Chief Judicial Magistrate, Baruipur.

With the aforesaid observations, the revisional application being CRR 817 of 2023 is disposed of.

Pending connected application, if any, is consequently disposed of.

All concerned parties shall act on the server copy of this order duly downloaded from the official *website* of this Court.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Tirthankar Ghosh, J.)