

18.01.2023

Item No.29

Ct.No.34

dc.

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

C.R.R. 872 of 2021

**Ananda Kala
versus
The State of West Bengal & Anr.**

In Re: An Application under Section 482 of the Code of Criminal Procedure, 1973.

Mr. Rajdeep Bhattacharya ... For the Petitioner.

Affidavit-of-service filed in Court today be kept on record.

The petitioner is aggrieved by the order of the learned sessions court while exercising its revisional jurisdiction directing to pay an amount of Rs.6000/- as interim maintenance per month to the wife.

Plea of the husband/petitioner is that he is earning Rs.2000/- to Rs.2500/- per month and he has got to maintain his mother as well as his unmarried sister. Learned advocate appearing for the petitioner submits that the learned trial court also did not consider the dictum of the Hon'ble Supreme Court in ***Rajnesh Vs. Neha & Another*** reported in ***(2021) 2 SCC 324***.

The initial order was passed by the learned Judicial Magistrate on 02.07.2019. Having considered the fact that more than three and a half years have passed since the order was passed by the learned Judicial Magistrate and the same was of interim measure during the pendency of the main application under Section 125 of the Code of Criminal Procedure, I am of the view that the wife/opposite party no.2

would be prejudiced if there is an interference by this Court at this stage. The plea taken by the present petitioner/husband is a question of fact. The amount which has been awarded is minimum amount required for an individual to survive. If there are alternate materials in the custody of the husband which dilute the right to maintenance of the wife, he will be at liberty to produce the same in course of the trial. No interference can be made at this stage.

With the aforesaid observations, the revisional application being CRR 872 of 2021 is disposed of.

All pending connected applications, if any, are consequently disposed of.

All 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.)