

18.09.2023

Item No.39
Ct.No.34
dc.

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

C.R.R. 3523 of 2023

In the matter of : **Biraj Barman**

... Petitioner.

Mr. Pawan Kumar Gupta,
Ms. Sofia Nesar,
Mr. Santanu Sett

... For the Petitioner.

Petitioner is aggrieved by the factum of the order dated 24.08.2022 being passed by learned Chief Judicial Magistrate, Malda in Misc. Case No. 436M of 2021 which is an order under Section 125 of the Code of Criminal Procedure wherein the learned Magistrate was pleased to award Rs.6000/- per month to the wife and Rs.4000/- per month to the minor son. According to the petitioner, although in the affidavit he has referred to be unemployed and resigned from service, yet the learned Magistrate proceeded on the basis of the factum that the petitioner happens to be a Constable of CRPF and on the foundation of a salary of Rs.65000/- decided to arrive at a quantum of Rs.10000/- in aggregate to be paid.

The petitioner has not stated whether he is getting any pension after he has left service. The said fact is within the absolute personal knowledge of the petitioner concerned. Until and unless such a material is placed before the court, it would not be possible for a court of law to suddenly arrive at a conclusion. Presently, the quantum of maintenance so awarded is not interfered with. If the petitioner prefers an application under Section 127 of the Code of Criminal

Procedure detailing his present status and earning, in that case, the learned Magistrate would freshly reconsider regarding the quantum.

With the aforesaid observations, the revisional application being CRR 3523 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.)