

12.12.2023
Item No.308
Ct.No.34
dc.

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

C.R.R. 4669 of 2023

In the matter of : **Sri Deepak Kumar Shaw** ... Petitioner.

Mr. Anirban Mitra,
Mr. Amit Halder,
Mrs. Madhumita Shadhukhan ... For the Petitioner.

The petitioner is aggrieved by the order dated 30.09.2023 passed by learned Additional Sessions Judge, Fast Track, 2nd Court, Sealdah in Criminal Motion 11 of 2019 wherein the learned revisional court was pleased to affirm the order dated 01.07.2019 passed in Misc. Case No. 17 of 2018 under Section 125 of the Code of Criminal Procedure by the learned Judicial Magistrate, 5th Court, Sealdah.

The grievance of the petitioner relates to interim maintenance which is an amount of Rs.6000/- per month awarded to the wife and Rs.4000/- each to two minor children aggregating to Rs.14000/- per month.

Mr. Mitra, learned advocate appearing for the petitioner submits that the petitioner is a tea-stall owner, but erroneously it has been recorded that the petitioner is having a shop of city-gold ornaments/jewelleries and he has a car and the learned court on an assumption of the petitioner's earning as a sum of Rs.50000/- per month, arrived at such conclusion for awarding interim maintenance to the tune of Rs.14000/- per month in aggregate.

As the findings are based on factual assertions and conclusions have been arrived at *prima facie* by two courts below, I am not inclined to interfere with the same until and

unless the same are rebutted by way of overwhelming evidence.

The petitioner would be at liberty to take out an application under Section 127 of the Code of Criminal Procedure, lead evidence to the effect in respect of his contention that he is a tea-stall owner and has got nothing to do with city-gold jewellery shop or the car which has been the subject-matter of foundation for awarding such amount of interim maintenance. If such an application is taken out by the petitioner, the learned Magistrate would issue notice to all the necessary parties and thereafter decide the same within a period of three months from the date of filing of such application.

With the aforesaid observations, the revisional application being CRR 4669 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.)