

**CRR 2562 of 2021
(IA No.: CRAN 2 of 2023)**

**Shraboni Das
Vs
Malay Das & Ors.**

Mr. Sandip Chakraborty
Mr. Suman Dey

... for the petitioner

Mr. Navanil De
Mr. Subhrajit Dey

... for the opposite parties

The present revisional application has been preferred against an order dated 01.10.2021 passed by the learned Additional Sessions Judge, Fast Track, 3rd Court, Sadar, Paschim Medinipur in Criminal Appeal No. 17 of 2021. The revision has been preferred by the wife being aggrieved by the said order under revision by which the learned District & Sessions Judge was pleased to dismiss the criminal appeal before it and was pleased to affirm the order dated 28.07.2021 passed by the learned Judicial Magistrate, 5th Court, Paschim Medinipur in Misc. Case No. 96 of 2021.

On perusal of the order under revision and the order passed by the learned Judicial Magistrate, it appears that an ad interim relief granting maintenance to the tune of Rs. 3000 p.m. was granted to the petitioner/wife from the date of order. This being not in accordance with the guidelines of the Hon'ble Supreme Court in *Rajnesh vs. Neha reported in (2021) 2 SCC 324*, the interim maintenance as granted by the learned Magistrate shall be payable to the wife/petitioner from the date of the filing of the case.

The next contention of the wife/petitioner is that she had also prayed for custody of the minor female child who is now staying with her father/the opposite party herein.

The learned Magistrate, considering the said prayer, observed that at the interim stage, the Court was not inclined to pass any order in respect of granting temporary custody of the child without giving the opposite party no. 1/husband an opportunity of being heard.

Thus, considering the said materials on record, the contentions of the learned counsel for both the parties and also the orders in the present case dated 29.09.2022 and 18.04.2024, this Court directs that the learned Magistrate shall dispose of case before it finally as per the guidelines of the Hon'ble Supreme Court in *Rajnish vs. Neha (supra)* **within a period of six months** from the date of communication of this order.

The learned Magistrate shall also consider the prayer of the petitioner/wife/mother as per Section 21 of the Protection of Women from Domestic Violence Act, 2005, keeping in mind, the feelings of the mother and also the father, as it appears that the child has been staying with the father for the last 5 to 6 years. The child is at present comfortable with her father and grand mother as noted by this Court vide order dated 18.04.2024, but keeping in mind the cries of a helpless mother to see her child, this Court directs that the learned counsel for the opposite party/husband shall take an initiative to see that the mother of the child, the petitioner/wife herein gets an opportunity to meet her child in the house of the opposite party/husband once in a fortnight, on a Sunday or on any Holiday (as mutually decided) until the case/matter is decided by the learned Magistrate in accordance with law.

It is further directed that the father, the grand-mother and the learned counsels appearing for both the parties shall keep their differences aside and make it possible for the mother, the petitioner/wife to see her child as directed.

With the above observations and directions, the criminal revisional application stands **disposed of**.

Consequently, all connected application also stands **disposed of**.

Let a copy of this order be sent to the learned Judicial Magistrate, 5th Court, Paschim Medinipur for necessary compliance.

Urgent certified photostat copy of this order, if applied for, shall be given to the parties as expeditiously as possible on compliance of all necessary formalities.

(Shampa Dutt (Paul), J.)