

IN THE HIGH COURT AT CALCUTTA

Criminal Revisional Jurisdiction

Appellate Side

Present:

The Hon'ble Justice Jay Sengupta

CRR 1029 of 2025

Satabdi Maity

Vs.

Tapas Maity

For the Petitioner

: Mr. Pratip Mukherjee

Mr. Partha Pratim Mukhopadhyay

Mr. Purnanankar Biswas

Heard on

: 01.07.2025

Judgment on

: 01.07.2025

Jay Sengupta, J.:

This is an application challenging the meagre sum of maintenance allowance awarded to the petitioner under Section 125 of the Code of Criminal Procedure by an order dated 12.02.2025 passed by the learned Judicial Magistrate, 3rd Court, Chandannagore, Hooghly in MC No. 307 of 2023.

Affidavit of service filed on behalf of the petitioner is taken on record.

Despite service, no one appears on behalf of the husband/opposite party.

Learned counsel appearing on behalf of the petitioner submits as follows. Although the opposite party is a Central Government employee and is earning about Rs. 88,000/- per month, the petitioner was granted a paltry interim maintenance allowance of Rs. 6,000/- for herself as well as two minor children. The two are 14 and 7 years old. They are studying in English medium Schools. Even the said sum of Rs. 6,000/- is not being paid.

It appears from the impugned order that the claims of the husband and the wife were considered by the learned Magistrate. After perusing the RTI information, the learned Magistrate recorded that as per the information dated 04.11.2024, the salary slip produced by the opposite party dated 02.12.2024 showed the husband's gross salary as Rs. 87,838/- and the net pay as 29,298/- after deductions.

Although the husband claimed that the wife was earning about Rs. 15,000/- to 20,000/- per month from a cake shop at her paternal home, no document has come in this regard.

It is indeed very strange that in such facts and circumstances, especially even after considering the husband's substantial income, a paltry sum of Rs. 6,000/- was granted as interim maintenance for the wife and her two minor children who were aged about 14 years and 7 years, respectively. It comes to about Rs. 2,000/- for each per month, which is roughly Rs. 66/- for a person per day.

Moreover, the amount interim maintenance allowance was allowed from the date of order and not from the date of application.

It is trite law that maintenance allowance should ordinarily be granted from the date of application unless the Court for special reasons chooses to do otherwise.

Far less than following the time tested formula of $1/5^{\text{th}}$ to $1/3^{\text{rd}}$ of income to be awarded as maintenance, the Magistrate granted a meagre amount as interim maintenance allowance for the wife and the two minor children.

In view of the above and in the interest of justice, the impugned order is set aside and the husband/opposite party is directed to pay monthly interim maintenance allowance under Section 125 of the Code corresponding to Section 144 of the BNSS, at the rate Rs. 10,000/- per month for the wife and Rs. 6,000/- for each of the children per month.

The learned Magistrate shall conclude the proceeding in the main matter in accordance with law and as expeditiously as possible after hearing both the parties.

The Magistrate shall not be swayed by any observation made by this Court herein as the same have been made in respect of interim maintenance allowance.

With these observations and directions, the revisional application is disposed of.

Urgent Photostat certified copy of this judgment be supplied to the parties, if applied for, as early as possible.

(Jay Sengupta, J.)

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