

SL- 39 17.09.2025
(Da)

CRR/1934/2025

In the matter of : SHAMAYITA MANNA
.... ...Petitioner

Mr. Arya Bhattacharyya,
Mr. Nilidri Sekhar Ghosh,
Ms. Sayani Das,
Mr. Sourav Mondal, Advocates
.. ...For the petitioner

1. Affidavit-of-service filed in Court be taken on record.
2. None appears for the opposite parties despite service.
3. Revisional application is directed against order dated March 10, 2025 passed in Criminal Revision No. 32 of 2023 and Criminal Revision No. 43 of 2023 by the learned Sessions Judge, Howrah.
4. By the impugned order, learned Judge, was pleased to dismiss the revisional application directed against the order dated February 9, 2023 passed by the learned Judicial Magistrate, 5th Court, Howrah in Misc. Case No. 396 of 2020.
5. Learned advocate appearing for the petitioner submits that, the petitioner is the wife of the private opposite party. There is a child born out of the wedlock. Child although an adult, is suffering from cancer. Petitioner is without any means of livelihood. She is unable to attend to the medical expenses of her son.
6. Learned advocate appearing for the petitioner draws the attention of the Court to the affidavit of assets disclosed by the private opposite party before the jurisdictional Court. He submits that, the private opposite party showed an expenditure in excess of Rs.38,000/- per month. Jurisdictional Court returned a finding that the income of

the private opposite party was Rs.32,374/- per month. He submits that, there is material irregularity in the finding returned by the jurisdictional Court and the revision Court warranting interference by the High Court. He contends that there is serious failure of justice.

7. In a proceeding under Section 125 of the Criminal Procedure Code the private opposite party filed an affidavit of assets. In such affidavit, he disclosed that, his monthly expenditure is Rs.38,000/-. The jurisdictional Court, however, found that the income of the private opposite party was Rs.32,374/- and, therefore, directed maintenance of Rs.4,000/- per month.
8. There is no finding either by the jurisdictional Court or by the revisional Court as to how the private opposite party, requiring a monthly expenditure of Rs. 38,000/- per month meets such monthly expenditure with an income of Rs.32,374/-. Obviously there is an issue of suppression of income. The finding that the monthly income is Rs.32,374/- is therefore perverse.
9. In such factual matrix, there is gross failure of justice. The plight of the child borne out of wedlock suffering from cancer is also required to be taken into consideration. A sum of Rs.4,000/- per month as monthly maintenance is insufficient for maintaining either the petitioner or the son born out of the wedlock.
10. In such circumstances, the impugned order dated March 10, 2025 passed in Criminal Revision No. 32 of 2023 along with the order dated February 9, 2023 passed in Misc. Case No. 396 of 2020 are set aside.
11. The jurisdictional Court is requested to hear and decide the application for maintenance afresh.
12. CRR/1934/2025 is disposed of.

(Debangsu Basak, J.)