

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

**PRESENT:
THE HON'BLE JUSTICE UDAY KUMAR**

C.R.R. 1992 of 2022

**Sambhu Nath Santra
-Vs-
State of West Bengal & Anr.**

For the Petitioner : Mr. Achyut Basu
Ms. Punam Basu
Mr. Srikumar Chakraborty
Mr. Amritansu Sengupta

For the Opposite Party No.2 : Mr. Sobhan Majumdar
Ms. Kalpita Paul

Hearing concluded on : 23.05.2025

Judgment on : 13.06.2025

UDAY KUMAR, J.: –

1. This revisional application, filed under Sections 401 and 397 of the Code of Criminal Procedure, 1973 (Cr.P.C.), challenges the legality, propriety, and correctness of an interim maintenance order dated April 28, 2022, passed by the Learned Additional Chief Judicial Magistrate, 2nd Court at Haldia, Purba Medinipur, in Misc. Case No. 107 of 2012, mandates the petitioner-husband, Sambhu Nath Santra, to pay a monthly maintenance of Rs. 15,000/- to his wife, the opposite party, Kabita Santra @ Mira, under Section 125 Cr.P.C. This Court, exercising its supervisory revisional jurisdiction, is called upon to scrutinize the

impugned order, bearing in mind the circumscribed yet essential scope of such jurisdiction.

- 2.** The marital journey of Sambhu Nath Santra and Kabita Santra @ Mira commenced on November 27, 1977. Their union bore two children, a daughter and a son, who is now regrettably deceased. The marriage was marked by persistent discord, ultimately culminating in an irretrievable breakdown and physical separation.
- 3.** In 2012, the opposite party-wife initiated maintenance proceedings under Section 125 Cr.P.C. Her claim detailed a history of consistent cruelty, neglect, and the husband's refusal to provide maintenance. She specifically contended that on May 27, 2012, she was forcibly ousted from their matrimonial home, after which the petitioner-husband completely ceased all financial support. She asserted her complete lack of independent income as a 63-year-old housewife, while highlighting the husband's substantial financial standing: a retired officer from Indian Oil Corporation Limited (IOCL), possessing considerable retiral benefits (alleged by her to be around Rs. 50 lakhs), and a robust income from multiple sources including pension, rental properties, agricultural earnings, and annual medical benefits. These, she contended, were sufficient to maintain her adequately.
- 4.** Conversely, the petitioner-husband vehemently refuted these claims. He asserted the wife had voluntarily abandoned the matrimonial home without just cause, denying any forcible ouster. Regarding his financial capacity, he presented himself as a person of limited means. He stated that his superannuation benefits, totalling Rs. 20,32,900/- upon his

retirement on April 30, 2008, had been largely expended on house construction and various medical treatments, severely impairing his ability to pay maintenance. He further alleged his wife was financially self-sufficient, purportedly earning approximately Rs. 5,000/- per month from providing private tuitions, thereby contending she was not "unable to maintain herself." He also raised allegations of adultery, bad conduct, premarital affairs, and involvement in family disputes against the wife, arguing these should disqualify her from maintenance under Section 125(4) Cr.P.C.

5. After meticulously reviewing the evidence presented by both parties, the Learned Magistrate passed the impugned order, directing the petitioner-husband to pay Rs. 15,000/- per month as maintenance to his wife. This order forms the subject matter of the present revisional challenge.
6. Mr. Achyut Basu, Learned Counsel for the petitioner contended that the maintenance order was fundamentally flawed. He argued that the wife's voluntary departure from the matrimonial home on May 27, 2012, without just cause, led to a forfeiture of her right to maintenance under Section 125(4) Cr.P.C., asserting that he never neglected or refused to maintain her. He further claimed the wife's financial self-sufficiency through private tuitions (Rs. 5,000/- monthly) disentitled her to maintenance.
7. Mr. Basu submitted that the Learned Magistrate wrongly assessed his client's financial capacity, emphasizing his modest pension and that his superannuation benefits of Rs. 20,32,900/- (after his 2008 retirement) were largely exhausted by house construction and medical expenses. He

dismissed the wife's claims of Rs. 50 lakhs in retirement benefits and substantial rental income as exaggerated, arguing against comparison with a Group D employee's benefit.

- 8.** Lastly, Mr. Basu reiterated allegations of adultery and other misconduct, asserting these legally disentitled the wife to any maintenance.
- 9.** Conversely, Mr. Sobhan Majumdar, Learned Counsel for the opposite party-wife strongly defended the maintenance order, asserting that it was well-reasoned and entirely justified. He contended that the petitioner-husband subjected her to continuous physical and mental torture, compelling her to leave the matrimonial home on May 27, 2012, thereby establishing "just ground" for separate residence as per Section 125(3) Cr.P.C. proviso. His undisputed failure to provide any maintenance before the interim order clearly demonstrated his neglect and refusal to support her. As a 63-year-old housewife, he asserted her complete lack of independent income, dismissing the husband's claims of tuition earnings as baseless.
- 10.** Mr. Majumdar further argued that the petitioner-husband, despite being a retired IOCL officer, deliberately concealed significant financial means. To buttress this point, she presented evidence showing that even a Group D employee from IOCL received over Rs. 25 lakhs in retirement benefits, strongly suggesting the husband's actual assets were far higher than his declared figures. His admitted ownership and letting out of multiple flats, coupled with his failure to produce rental documents, further indicated a deliberate attempt to hide income. Opposite party

dismissed the husband's character attacks as unsubstantiated and irrelevant to the core issue of maintenance.

- 11.** Based on these competing submissions and the entire material on record, the central question for this Court's determination is:

"Whether the Learned Magistrate correctly applied the principles of Section 125 Cr.P.C. in determining the Opposite Party-Wife's entitlement to maintenance and the quantum awarded, particularly considering the husband's alleged neglect, his financial capacity, and the circumstances of the wife's separate residence?"

- 12.** The revisional jurisdiction of this Court under Sections 397 and 401 Cr.P.C. is supervisory, not appellate. It permits examination of the correctness, legality, or propriety of a subordinate Court's findings or orders, primarily to prevent gross miscarriage of justice. This jurisdiction does not entail a re-appreciation of evidence as if it were an Appellate Court, nor does it allow the substitution of this Court's own factual findings for those of the Lower Court unless there is a patent legal error, perversity in findings, or a conclusion clearly against the weight of evidence. With this guiding principle, this Court proceeds to analyse the impugned order in light of the requirements of Section 125 Cr.P.C.

- 13.** Section 125(1)(a) Cr.P.C. stipulates that a wife must be "unable to maintain herself" to claim maintenance. The Learned Trial Court meticulously considered the wife's assertion that, as a 63-year-old housewife, she possessed no independent income. The petitioner-husband's counter-contention regarding her purported earnings of Rs. 5,000/- monthly from private tuitions was found to be wholly

unsupported by any credible proof. The well-established legal position, as reiterated by the Hon'ble Supreme Court in *Bhagwan Dutt v. Smt. Kamala Devi*, AIR 1975 SC 820, clarifies that the phrase "unable to maintain herself" does not imply absolute destitution but rather a lack of sufficient independent resources to sustain a reasonable standard of living. Crucially, the burden of proving the wife's financial self-sufficiency lies squarely on the husband. Given the wife's advanced age and the petitioner-husband's demonstrable failure to adduce any verifiable proof of her alleged income, the Learned Magistrate's finding that the opposite party was indeed "unable to maintain herself" is factually sound and legally unassailable, warranting no interference.

14. The predicate for an order under Section 125 Cr.P.C. is that the respondent must be a person "having sufficient means." The complainant-wife alleged the petitioner, a retired IOCL officer, received approximately Rs. 50 lakhs in retirement benefits and earned around Rs. 1 lakh monthly. In stark contrast, the petitioner claimed his superannuation benefits of Rs. 20,32,900/- (from his April 30, 2008 retirement) were largely expended on house construction and various medical treatments. The critical factual findings, leading to an adverse inference by the Trial Court, stem directly from the petitioner's admissions and glaring omissions: he admitted ownership of multiple flats, yet consistently failed to produce any rent agreements or documents to substantiate his claimed low income or fully explain his property ownership. Furthermore, the wife adduced compelling evidence that even a lower-ranking Group D employee from IOCL received

substantial retirement benefits (Rs. 25,63,669/-), which factually contradicted the petitioner's understated claims given his higher status as an officer.

- 15.** This Court strictly adheres to the clear mandate of the Hon'ble Supreme Court in *Rajnesh v. Neha & Anr.* (2021) 2 SCC 324, which necessitates comprehensive financial disclosures by both parties via affidavit and unequivocally empowers Courts to draw adverse inferences for non-disclosure. The Learned Magistrate, based on the clear factual record, rightly highlighted the petitioner's consistent failure to provide complete details of his retirement benefits, the alleged house building loan, and his rental income, despite ample opportunities afforded to him. This consistent non-disclosure is a strong factual indicator of a deliberate and calculated attempt to conceal significant income and assets. Considering his professional background as a retired officer from a major Public Sector Undertaking, his admitted ownership of multiple properties, and his palpable evasiveness, it is entirely reasonable and legally sound to conclude that he possesses sufficient means far exceeding his declared income. His assertion of heavy expenditure on house construction, being factually unsupported by documentary evidence and sharply contrasted with his undisclosed rental income, appears to be an unsubstantiated excuse designed to evade his legal obligations. The burden of proving such significant expenditures rests squarely with the husband, and mere self-serving assertions, as found in this case, are legally insufficient to discharge this burden.

16. Section 125(1) Cr.P.C. explicitly requires proof of "neglect or refusal" to maintain. The complainant consistently asserted her husband forcibly ousted her on May 27, 2012, and thereafter steadfastly refused financial support. While the husband claimed she left voluntarily, the Lower Court made a crucial and undisputed factual finding: for nearly a year, from May 27, 2012, until the interim maintenance order on April 26, 2013, the husband admittedly provided no maintenance whatsoever to the wife. This prolonged cessation of financial support is a concrete, undeniable fact. Neglect, in legal terms, can be unequivocally inferred from such a prolonged and undeniable cessation of financial support, as firmly established in precedents like *Vimla Devi v. Kewal Singh*, 1990 Supp SCC 730. Therefore, the nuance of physical ouster versus voluntary departure becomes less significant than the undisputed cessation of financial support during a period when she was unable to maintain herself. His claims of attempted reconciliation or her alleged refusal to return lacked concrete evidence of genuine efforts to fulfil his fundamental maintenance obligation. Thus, based on the clear factual finding of non-payment for nearly a year, the conclusion that the husband neglected or refused to maintain the wife is firmly and undeniably established.

17. Furthermore, the proviso to Section 125(3) Cr.P.C. permits maintenance if there is "just ground" for the wife to live separately, even if the husband offers to maintain her on condition of her living with him. The complainant consistently alleged a pattern of physical and mental torture, neglect, and persistent demands for money, which compelled

her to leave the matrimonial home. These were her stated factual reasons for separate residence. The husband's defence relied on various unsubstantiated character attacks, including unproven allegations of adultery (under Section 125(4) Cr.P.C.), which lacked concrete proof. Courts have consistently recognized cruelty, whether physical or mental, as a "just ground" for separate residence, as emphatically affirmed in cases like *Rohtash Singh v. Smt. Ramendri*, (2000) 3 SCC 508. The petitioner-husband's baseless character assassinations do not in any manner negate her right to maintenance if her stated reasons for separation are genuine and compelling, which the Trial Court implicitly found. The wife's consistent and grave allegations of torture and neglect certainly provide a compelling "just ground," thereby justifying her separate residence due to the undeniable and irreconcilable breakdown of their marriage and his alleged misconduct.

- 18.** The opposite party-wife initially sought Rs. 25,000/- per month, and the Learned Magistrate awarded Rs. 15,000/- per month. It is a well-settled principle that there is no rigid mathematical formula for calculating maintenance. Section 125(1) Cr.P.C. mandates the grant of a "fit" amount, considering the husband's financial status, earning capacity, the wife's specific needs, her accustomed standard of living during the marriage, and the overall assets and liabilities of both parties. The Hon'ble Supreme Court, in *Kalyan Dey Chowdhury v. Rita Dey Chowdhury*, (2017) 14 SCC 572 and *Rajnish v. Neha (supra)*, has consistently emphasized that maintenance should ensure the wife maintains a standard of living somewhat commensurate with that

enjoyed in the matrimonial home, preventing vagrancy and preserving her dignity.

19. Considering the petitioner-husband's background as a retired IOCL officer, his admitted property holdings, and his clear evasiveness in disclosing his true and complete income (which were all critical factual elements established by the Trial Court's adverse inferences), the awarded amount of Rs. 15,000/- per month is found to be neither excessive nor unreasonable. His proven evasiveness regarding his full retirement benefits and significant rental income clearly indicates a financial capacity far exceeding his declared figures. As a retired officer from a Public Sector Undertaking, his income and associated lifestyle would undoubtedly be substantial. The factual determination of his hidden income thus directly supports the quantum, which effectively balances the wife's legitimate needs as a senior citizen against the husband's robust financial capacity, allowing her to live with dignity and comfort. The Learned Magistrate correctly applied the principles enunciated in *Rajnesh v. Neha* regarding comprehensive financial disclosure and was entirely justified in drawing adverse inferences due to the petitioner-husband's evident and consistent lack of transparency. The husband's unproven argument about heavy house construction expenditure appears to be a convenient, self-serving excuse to evade his primary and solemn duty to maintain his wife.

20. In any event a husband's failure to discharge the burden of proving his wife's independent financial self-sufficiency, coupled with his deliberate non-disclosure or incomplete disclosure of his own substantial financial

means (leading to adverse inferences as per *Rajnesh v. Neha*), and an undisputed prolonged cessation of financial support, collectively constitute sufficient grounds for granting maintenance under Section 125 Cr.P.C. Furthermore, consistent ill-treatment justifying separate residence provides "just ground" for such separation, and unsubstantiated allegations of adultery do not disentitle maintenance. The quantum of maintenance must fairly reflect the husband's true financial capacity, even if concealed, to ensure the wife maintains a reasonable standard of living commensurate with her past accustomed lifestyle. A revisional Court, in its supervisory capacity, will not re-appreciate factual findings that are well-supported by evidence and arrived at without legal perversity or error of law.

21. In light of this exhaustive analysis and the principles of law applied, this Court finds no illegality, impropriety, or incorrectness in the judgment and order dated April 28, 2022, passed by the Learned Additional Chief Judicial Magistrate, 2nd Court at Haldia, Purba Medinipur, in Misc. Case No. 107 of 2012. The Learned Magistrate has correctly applied the fundamental principles enshrined in Section 125 Cr.P.C. and has arrived at a just and eminently reasonable conclusion based on the overwhelming evidence presented and, significantly, the petitioner-husband's consistent evasion in disclosing his full and accurate financial picture. The revisional jurisdiction of this Court does not extend to re-evaluating factual findings that are well-supported by evidence and arrived at without perversity.

- 22.** In view of the aforesaid deliberations and findings, the Criminal Revisional Application No. 1992 of 2022, along with connected applications, if any, are hereby dismissed.
- 23.** Accordingly, the judgment and order dated April 28, 2022, passed by the Learned Additional Chief Judicial Magistrate, 2nd Court at Haldia, Purba Medinipur, in Misc. Case No. 107 of 2012, is hereby affirmed.
- 24.** The petitioner-husband, Sambhu Nath Santra, is directed to comply with the said order by making all outstanding payments of maintenance, if any, within a period of four weeks from the date of this order. He shall continue to pay future maintenance as per the order of the Learned Magistrate.
- 25.** There shall be no order as to cost in this revisional application.
- 26.** Interim order/orders, if any, passed by this Court during the pendency of this revisional application, stand vacated.
- 27.** Let a copy of this judgment and order be sent forthwith to the Learned Additional Chief Judicial Magistrate, 2nd Court at Haldia, Purba Medinipur, for necessary action and record.
- 28.** All parties shall act on the server copy of this judgment and order duly downloaded from the official website of the High Court.
- 29.** Urgent photostat certified copy of this judgment and order, if applied for, be supplied to the parties upon compliance with requisite formalities.

(Uday Kumar, J.)