

HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION

Present:

THE HON'BLE JUSTICE JAY SENGUPTA

CRR 2281 of 2025

Rokeya Bibi Khan

versus

Sk. Nasir Ali

Petitioner in person

Ms. Rokeya Bibi Khan

For the opposite party

Mr. Bidhayak Lahiri

Ms. Bhaswati Lahiri

Last heard on

26.06.2025

Judgment on

26.06.2025

JAY SENGUPTA, J:

This is an application challenging the impugned orders dated 01.10.2024, 02.05.2025 and 08.05.2025 passed by the learned Judicial Magistrate, 1st Class, 1st Court at Contai in Misc.(P) Case No.43 of 2023 under Section 127 of the Code.

The petitioner, appearing in person, submits as follows. The petitioner is a qualified Advocate, but is unable to maintain herself. She was granted monthly maintenance allowance under Section 125 of the Code. Thereafter, it was enhanced under Section 127 of the Code. Her husband came up before this Court contending that his application under Section 127 of the Code was not being heard. This Court stayed the warrant of arrest in respect of certain execution cases provided that the husband paid a sum of Rs.16,000/- per month as maintenance allowance to the wife. The husband is not paying such maintenance allowance regularly. In fact, the husband/opposite party started to harass the wife/petitioner and tried to prevent her even from entering into the Court premises. She was denied help of any Advocate from the local Bar. Although this was brought to the notice of the Magistrate, but no steps were taken. The petitioner was not granted sufficient time to file affidavit of assets and liabilities. A prayer for adjournment was disallowed and the defence was struck off. This was possibly because the petitioner had by then prayed before the Sessions Judge for transfer of the proceeding. On 02.05.2025, the learned Magistrate even closed the evidence of the wife. She would not pray for unnecessary adjournments.

Learned counsel for the opposite party/husband denies the allegations and submits as follows. The application for transfer

filed by the petitioner has been rejected by the Sessions Judge. By an order dated 26.07.2024 passed in CRR 2664 of 2024, this Court directed the Magistrate to conclude the proceeding under Section 127 of the Code, within two months from the next date of hearing. The petitioner prayed for adjournments. But, the learned Magistrate ultimately refused to grant. The impugned orders are reasoned ones and need not to be interfered with.

It is true that there was a direction given by this Court to conclude the proceeding under Section 127 of the Code within two months from the next date of hearing.

However, it appears that on one occasion, the Presiding Officer of the Court was absent.

It also appears that the petitioner wanted to file an affidavit of assets and liabilities, which she was finally able to file.

One can understand that the learned Magistrate was also trying to conclude the proceeding, among other things, in view of the direction passed by this Court. He cannot be faulted with for trying to expedite the matter.

However, as the matter relates to a woman's right to claim maintenance and for securing the ends of justice, let the petitioner get another opportunity to cross-examine the witness and properly place her case.

In view of the above, the impugned orders dated 02.05.2025 and 08.05.2025 are set aside and the matter is remanded back to the learned Magistrate for proceeding from such stage. Within a fortnight from receipt of a copy of this order the learned Magistrate shall fix a date granting opportunity to the petitioner to cross-examine PW-1. However, the cross-examination shall be done on the particular date fixed. Thereafter, the learned Magistrate will further proceed with the matter and conclude the proceeding at the earliest, preferably within two months from the date of such cross-examination.

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

Urgent photostat certified copy of this order may be supplied to the parties expeditiously, if applied for.

(Jay Sengupta, J.)

