

02.09.2025  
(D/L 33)  
Ct.-446  
(Susanta/  
Samar)

**CRR 3723 of 2025**

In Re: Siddhartha Chakraborty & Ors.  
....Petitioners.

Mr. Krishanu Ganguly,  
Mr. Sandeep Prasad Shaw,  
Mr. Aman Kumar Singh,  
Mr. Prasenjit Kayal,

.... For the Petitioners.

1. This revisional application has been filed under Section 482 of the Code of Criminal Procedure read with Section 528 of the BNSS, 2023 against an order passed by the learned Additional Chief Judicial Magistrate at Lalbagh, Murshidabad dated 5<sup>th</sup> April, 2025 in connection with Misc. Case no. 55 of 2025, whereby the amount of Rs. 15,000/- (Rupees fifteen thousand only) is directed to be paid from the date of passing of that order towards interim maintenance. Liberty has also been granted to the petitioner to prefer execution in accordance with law for realization of the default amount.
2. It is submitted by the learned advocate representing the petitioner that the wife/opposite party has filed the complaint falsely implicating the present petitioner/husband as well as the other petitioners, who are distant-in-laws and also on affidavit she stated incorrect

fact of having a minor daughter but the fact reveals that have no child from the wedlock.

3. Learned advocate also draws the attention of this court to the affidavit of assets filed before the learned Court where in column no. E (details of children of the parties) in serial No. 2 the name and age of the children has been mentioned "no", which itself primarily shows the difference of statement given by the petitioner/wife while making application of oath.
4. It is further contended by the learned advocate that the petitioner has also suppressed in her application about the previous petition or proceeding pending before the same Court under Section 125 Cr.P.C. and 498A of IPC.
5. However, this fact was not considered by the learned Court since it was over looked and the order was passed ex parte against the present petitioner no. 1 being the husband. It is further submitted that execution proceeding has been initiated since the amount for maintenance has not been paid by the husband.
6. Accordingly, the petitioner has come before this Court for setting aside the said order. Heard the submission. Perused the record and the content of the application filed under the relevant provision of Protection of Women from Domestic Violence Act, 2005 where on affidavit it is mentioned in paragraph 3 that she prayed for maintenance for herself and for her minor daughter.

7. On account of perusal of the affidavit of assets it also transpires that in the specific column has filed before this Court she has mentioned in the relevant column no child.
8. Therefore, in view of the contrary submission which was made on affidavit before the Court certainly creates the cloud over the entire facts narrated before the Court regarding the suppression of fact which may have an adverse inference against her.
9. It is the proposition of law that the litigant must come before the Court with clean hands and on affidavit the mother stated before the Court about having child and prays for maintenance when there is no child from the wedlock as per the version of the father certainly suggest taking appropriate step against the petitioner/wife by the Court.
10. This Court is of the view considering the facts and circumstances of the case that since those facts were never agitated. Therefore, the learned Magistrate had no scope to apply his mind and is directed to reconsider the application filed before the Court for maintenance after giving an opportunity of hearing to the husband to controvert the allegation leveled against him and also enable the Court to consider the discrepancies as raised before this Court.
11. The Magistrate while reconsidering the application is further directed to verify the statement of the mother of

having child as placed by way of affidavit before the Court and to take appropriate steps, accordingly within the purview of the legal framework.

12. So far the order impugned granting maintenance in favour of the petitioner for herself at the rate of Rs. 15,000/- as an interim maintenance is considered, this Court refrains from interfering with the same since the discrepancies raised were not considered by the learned Counsel. However, the present petitioner is directed to pay the current maintenance amount forthwith.

13. So far the arrear is concerned, the petitioner is given liberty to place the same before the learned Court and the learned Court is also directed to consider all possible manner as to how such prayer may be disposed of after giving opportunity to the parties to enable him to pay the same on instalment considering the need and urgency of the said amount.

14. In view of the above, the instant revisional application is disposed of and since the matter is heard without serving notice upon the opposite party, excepting the point raised pertaining to the fact of having child, any other allegation/allegations, if any, leveled against the opposite party are to be treated as 'not' admitted by the opposite party and will be left open to be decided by the learned Magistrate.

15. Urgent photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

**(Chaitali Chatterjee (Das), J.)**