

IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
APPELLATE SIDE

CRR 3471 of 2024

Smt. Sakila Bibi

Vs.

The State of West Bengal & Anr.

Before: The Hon'ble Justice Apurba Sinha Ray

For the Petitioner : Mr. Partha Pratim Das, Adv.
Mr. Monojit Chakraborty, Adv.

For the Opposite Party No. : Mr. S. Sarkar, Adv.
2 Mr. A.S. Tarafdar, Adv.
Ms. S. Saha, Adv.
Mr. D. Banerjee, Adv.
Mr. Md. T. Reja, Adv.

CAV On : 19.06.2025

Judgment On : 30.06.2025

Apurba Sinha Ray, J. :-

1. The instant revisional application was filed by the petitioner wife challenging the judgment and order dated 15.07.2024 of the Learned Additional Sessions Judge, 2nd Court, Barasat in Criminal Revision No. 241 of 2023 modifying the order dated 30.05.2023 of the Learned Additional Chief Judicial Magistrate, Barasat, North 24 Parganas in Misc. Case No. 692 of 2015 under Section 125 of the Code of Criminal Procedure, 1973.

2. According to Mr. Das though the Learned Additional Sessions Judge, 2nd Court, Barasat did not interfere with the quantum of maintenance to be given to the petitioner wife, the said order, in fact, modified the order of Learned Additional Chief Judicial Magistrate, Barasat, North 24 Parganas only to extent that the wife will have her maintenance from the date of final order and not from the date of application under Section 125 Cr.P.C. Mr. Das has submitted that Hon'ble Supreme Court in **Rajnesh Vs. Neha & Anr. Reported in (2021) AIR (SC) 569** has specifically mentioned that maintenance allowance is to be paid from the date of application and not from the date of final order. The learned counsel Mr. Das has also relied upon another unreported decision of the Hon'ble Supreme Court in **Criminal Appeal No. 3446 of 2023 arising out of S.L.P. (Crl.) No. 11954 of 2023 Aditi alias Mithi Vs. Jitesh Sharma delivered on November 6, 2023** which also discusses the judgement of **Rajnesh (supra)** at length Mr. Das has submitted that as the law has been well settled by the Hon'ble Apex Court, the Learned Additional Sessions Judge, 2nd Court, Barasat, North 24 Parganas has committed a grave error by directing the maintenance to be awarded to the petitioner-wife from the date of delivery of judgment.

3. The learned counsel Mr. Sarkar appearing for the opposite party no. 2, has submitted that the opposite party husband has been paying Rs. 5000/- per month to the petitioner from the date of final order of the Learned Additional Chief Judicial Magistrate regularly. According to him, the Learned Additional Sessions Judge has rightly modified the relevant order. However, it is submitted on behalf of the opposite party no. 2 that the

petitioner-wife did not file any application under Section 127 Cr.P.C. for modification or enhancement of the amount of maintenance allowance. The learned counsel has prayed for dismissal of the instant revisional application.

4. I have considered judicial decisions referred to by learned counsel of the petitioner.

5. After considering the rival contentions of the parties and also taking into consideration the judicial decisions as referred to above, I find that the Hon'ble Supreme Court in **Rajnish Vs. Neha & Anr. (supra)** has dealt with the issue quite elaborately and after taking into consideration of all the divergent views of different High Courts, the Hon'ble Supreme Court has been pleased to observe as hereunder:-

"It has therefore become necessary to issue directions to bring about uniformity and consistency in the Orders passed by all Courts, by directing that maintenance be awarded from the date on which the application was made before the concerned Court. The right to claim maintenance must date back to the date of filing the application, since the period during which the maintenance proceedings remained pending is not within the control of the applicant."

6. In **Aditi alias Mithi case (supra)**, the Hon'ble Supreme Court has taken a stringent view since the Hon'ble Court finds that the directions of

the Hon'ble Supreme Court in Rajnesh Vs. Neha & Anr. (supra) have not been complied with by several courts in the district judiciary. Strict compliance of such directions of the case of Rajnesh (supra) has been sought for.

7. In view of the above directions of the Hon'ble Apex Court, I find that the petitioner wife is entitled to have her maintenance allowance from the date of filing of the application and not from the date of the final order. Therefore, the Learned Additional Sessions Judge has committed an error by not taking into consideration the directions of the Hon'ble Supreme Court in this regard. Hence, I find merits in the contention of the petitioner, and accordingly, the impugned order dated 15.07.2024 passed by the Learned Additional Sessions Judge, 2nd Court, Barasat in the Criminal Revision No. 241 of 2023 is hereby set aside. The order dated 30.05.2023 passed by the Learned Additional Chief Judicial Magistrate, Barasat, North 24 Parganas in Misc. Case No. 692 of 2015 under Section 125 of the Code of Criminal Procedure is hereby restored. The opposite party no. 2 is directed to comply with the said order immediately. The instant Criminal Revision is allowed on contest. No order as to costs.

8. CRR 3471 of 2024 is thus disposed of.

9. Urgent photostat certified copies of this Judgment, if applied for, be supplied to the parties on compliance of all necessary formalities.

(APURBA SINHA RAY, J.)