

15.12.2025
Court No.42
Item No. 52
pk/sp

CRR 4041 of 2025
Sri Manoj Saha
Vs.
Smt. Sangita Saha (Ghosh)

Mr. Nilanjan Adhikari,
Ms. Oindrila Sinha.

..for the petitioner.

1. The present petition has been filed challenging the order dated 10th July, 2025 passed by the learned Additional District and Sessions Judge, Fast Track 1st Court at Barrackpore whereby Criminal Revision No. 180 of 2024 filed by the petitioner/husband was dismissed.
2. The learned Judicial Magistrate, 5th Court, Barrackpore, North 24-Parganas in M.Case No. 892 of 2021 vide order dated 22nd January, 2024 directed to pay Rs. 6,000/- per month to the wife and Rs. 3,000/- to the son as interim maintenance.
3. Learned counsel for the petitioner submits that the maintenance to the wife could not have been granted as she deserted the matrimonial home at her own. Learned counsel submits that on this ground divorce was also granted by the learned Additional District Judge, Fast Track 3rd Court in Matrimonial Suit No. 282 of 2013.
4. Learned counsel for the petitioner has invited the attention of this Court to the order dated 21st February, 2019 whereby it

was inter alia held that the wife had deserted the petitioner/husband for a continuous period of not less than two years immediately preceding the presentation of the application.

5. The issue of desertion is a matter of fact which is required to be proved in accordance with law. The order under challenge is only at the interim stage and the parties shall have liberty to produce the evidence so as to prove their assertion. The onus of the proof is also distinct in the matrimonial proceeding and the proceeding under Section 125 of the Cr. P.C. However, without adverting to any expression on the merits of the case, the Court considers that the learned Judicial Magistrate decides the maintenance application finally within the period of three months in accordance with law.

6. However, this Court has not gone into the merits of the case and no expression herein shall tantamount to the expression on the merits of the case.

7. Learned Judicial Magistrate is directed to dispose of M. Case No. 892 of 2021 under Section 125 of the Cr.P.C. expeditiously preferably within a period of three months.

8. With the aforesaid observations, the present petition is disposed of.

9. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(*Dinesh Kumar Sharma, J.*)