05.10.2026
Sl.No. 11
Ct. 39
Amalranjan

IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
APPELLATE SIDE

CRR/1006/2026
MD. ALIBORDI SK @ SKH @ PINTU
VS
ESMOTARA KHATUN

Mr. Soumyajit Das Mahapatra
Mr. Md. Golam Nure Imrohi
Mr. Partha Pratim Saha

...for the petitioner

1. Photocopy of the marriage certificate, filed by the petitioner, is taken on record.

2. This revisional application is at the behest of the petitioner/husband. He challenges the impugned order dated 20.12.2024 passed by the learned Additional Judicial Magistrate, 2nd Court, Lalbagh, Murshidabad in connection with M.R. Case no. 722/2023 corresponding to T.R. No. 545/2023 under Section 125 of the Code of Criminal Procedure corresponding to Section 144 of Bharatiya Nagarik Suraksha Sanhita, 2023 and the consequential order dated 22.09.2025 passed by the Learned Additional Judicial Magistrate, 2nd Court, Lalbagh, Murshidabad in connection with Execution Case no. 529 of 2024 by which a direction was passed against the present petitioner for payment of the arrear maintenance.

3. Learned counsel appearing on behalf of the petitioner submits that he was/is a labour and he does not have

the capacity to pay Rs. 7,000/- per month to maintain his wife and two children, as allowed by the learned Trial Court, and he was not given the opportunity to place his case before the Trial Court.

4. Learned counsel for the petitioner further submits that during pendency of this case, the opposite party/wife got married to one Kazi Abul Basar on 2nd April, 2026. Therefore, she is not entitled to get any further maintenance from the petitioner from the date of her second marriage. Accordingly, the husband prays for modification of the order passed by the Trial Court.

5. Learned counsel further prays for reduction of maintenance amount awarded in favour of the children.

6. Having regard to the facts and circumstances and on perusal of the materials available on record, this Court finds that the Trial Court has considered the materials as placed before the Trial Court and further finds that despite service of summons on the opposite party, the husband petitioner herein did not take any steps. Accordingly, the matter was heard *ex parte* and finally the husband was directed to pay Rs. 3,000/- per month for her and an amount of Rs. 2,000/- each for her two minor children towards maintenance allowance from the date of filing of the case.

7. This court is of the view that such amount is minimum considering the earning of the husband. This court can presume safely that his earning may be Rs. 500/- to Rs.

600/- per day, even if it is assumed that he is a labour and an able-bodied person. Apart from this, as a husband he has a moral and statutory obligation to maintain his wife and children if she is unable to maintain herself and children. It is not the case of the petitioner that she has her own income to maintain herself and her children. The only grievance in the present situation is that she got married to someone else on 2nd April, 2026.

8. The petitioner/husband would be at liberty to file an application for modification of the maintenance amount due to changed circumstances in view of the provision available in the Cr.P.C., if so advised, before the Trial Court, placing the said marriage certificate of the Opposite Party No. 2.

9. In the above backdrop, this Court prefers to dispose of this case without interfering with the order dated 20.12.2024 passed by the Trial Court since the amount awarded in favour of the wife and children is found just and proper.

10. Accordingly, **CRR 1006 of 2026** stands **disposed of**.

11. Consequently, the connected application, if any, stands disposed of.

12. Interim order, if any, stands vacated.

13. The Trial Court may dispose of the application, if filed for modification due to change circumstances as expeditiously as possible independently and in

accordance with law, without being influenced by the observations made by this Court, and take it to its logical conclusion.

14. This Court hopes and trusts that the Trial Court will decide the application as expeditiously as possible, giving some preference since it involves maintenance.

15. Let a copy of this order be communicated to the learned court below forthwith.

16. All parties shall act in terms of the copy of this order downloaded from the official website of this court.

17. Concerned Department is directed to supply certified copies of this order to the parties, if applied for, upon compliance of all necessary formalities.

(Ajay Kumar Gupta, J.)