

12.06.2026

Sl. No.311.

D/L.

Mithun.

Ct.No.29.

CRR/971/2025

Smt. Moumita Saha

Vs.

Rajan Kumar

Mr. Prasenjit Debnath,
Mr. A. Sengupta

...for the petitioner

Mr. Gunjan Kumar Singh,
Mr. Lakshmi Narayan Mishra,
Ms. Rupsa Maity,
Mr. Vikas Kumar

...for the opposite party

Affidavit-in-opposition and affidavit-in-reply filed by the parties are taken on record.

Petitioner herein is aggrieved with the order dated 06.02.2025 passed by learned Judicial Magistrate, 1st Class, 5th Court, Barrackpore in connection with Misc. Case No.312 of 2019.

By the impugned order learned Court below has granted maintenance of Rs.18,000/- per month to the petitioner/wife from the date of passing of the order.

Being aggrieved by the aforesaid order, learned Counsel for the petitioner has drawn my attention to the impugned judgment itself contending that it is admitted position that the gross salary of opposite party for the month of December, 2024 was Rs.1,17,656/- and net pay was Rs.97,951/- after necessary deduction. He further submits that the judgement itself reflects that though opposite party made a representation that he has to look after his

aged ailing parents but evidence of O.P.W.1 makes it clear that Opposite party/husband has another brother who is also an employee of Railway Department, so opposite party does not have sole responsibility to look after his parents. He further drawn my attention to Paragraph No.XVII of the judgment wherefrom it appears that the Court below had made specific observation that the petitioner/wife has no monthly income of her own. He further submits that the judgment itself demonstrates that in the cross-examination, opposite party himself admitted that he has taken two loan in total, first in the year 2020 and second in the year 2023 but the maintenance case was filed in the year 2019 and, therefore, the object of taking such loan is manifested. Therefore, he submits that the quantum of maintenance awarded by the Court below is insufficient to maintain herself and is not at per, what she is entitled legally to maintain the same standard of living and life style she enjoyed at her matrimonial home.

He further submits that in view of the law laid down in the judgment of ***Rajnish Vs. Neha & Anr.*** reported in **(2021) 2 SCC 324**. It is well-settled that the maintenance amount is to be paid from the date of filing of the application and not from the date of passing of the order. Therefore, he prayed for necessary modification of the order impugned.

Learned Counsel appearing on behalf of the opposite party raised objection and he also placed reliance upon the judgment of ***Rajnish Vs. Neha (supra)*** and contended that certain factors are to be considered while determining the quantum of maintenance

which includes reasonable needs of the wife and also parties individual qualifications and employment statuses as has been reiterated in the judgement of ***Kiran Jyot Maini Vs. Anish Pramod Patel, (2024) SCC Online SC 1724***. It was further pointed out in the judgment that provision for maintenance aims at protecting the interests of the dependent spouse and does not provide for penalising the other spouse in the process. Learned Counsel for the opposite party further submits that the petitioner is B.Sc, B.Ed and, as such, she is well-qualified and her educational qualification should also be taken into account while determining the quantum of maintenance. He further submits that the Court below after considering overall aspects of the matter and the liabilities and also the net income of the husband/opposite party, has decided the quantum of maintenance which is sufficient and does not call for any interference by this Court.

Having heard learned Counsel for the petitioner and the opposite party, it appears from the order impugned that admitted position is that as on December, 2024, the petitioner's gross pay was Rs.1,17,656/- and the net pay was Rs.97,951/- which must have increased in the meantime. It further appears that though the petitioner tried to demonstrate before this Court that he had to pay certain loans by way of monthly instalments but it demonstrates that the loans were taken after filing of the maintenance application by the petitioner. In ***Manish Jain Vs. Akanksha Jain***, reported in ***(2017) 15 SCC 801*** Supreme Court

observed that it is no answer to a claim of maintenance that the wife is educated and could support herself.

The law laid down by the Apex Court in ***Rajnesh Vs. Neha (supra)*** made it clear that the maintenance amount whatever may be awarded is to be awarded from the date of filing of the application of the maintenance petition.

Having considered overall circumstances of the case and taking into account the workable formula as far as possible for determining the quantum of maintenance in the light of available facts and circumstances of the case, the instant application being CRR 971 of 2025 is disposed of directing the opposite party/husband to pay monthly maintenance of Rs.24,000/- per month to the petitioner/wife within 10th of each succeeding calendar month and the order shall take effect from the date of filing of the maintenance petition. Such determination, is in my opinion realistic, reasonable and allows the wife to maintain the lifestyle she was accustomed to in the matrimonial home, without being excessively burdensome on the husband.

The impugned order dated 6th February, 2025 thus stands modified to that extent.

CRR 971 of 2025 thus stands disposed of.

Parties to act on a server copy of this order duly collected from the official website of the Hon'ble High Court, Calcutta.

(Dr. Ajoy Kumar Mukherjee, J.)