

08.06.2026.
Item No. 3.
Court No. 13
ap

**F.M.A.T. 457 of 2025
With
I.A. No. CAN 1 of 2025**

**Anindya Basu
Versus
Ahana Ghosh**

Mr. Sukanta Chakraborty,
Mr. Anindya Halder,
Mr. Shaondeep Chakraborty,
Mr. Ronit Deyashi.

...For the appellant.

Mr. Dyutiman Banerjee,
Mr. Debjit Dutta.

...For the respondent.

1. The subject appeal is directed against the order dated 20th June, 2025 passed by the learned Additional District & Sessions Judge, 1st Court, Alipore, South 24 Parganas in Misc. Case No. 102 of 2025.
2. The appellant had filed an application for seeking sanction to prosecute the opposite party/wife for suppression or misstatement in her affidavit-of-assets in her matrimonial suit.
3. According to the learned Counsel for the appellant, such suppression has led to Rs.50,000/- as maintenance ordered by the Trial Court.
4. It is further submitted that but for such suppression, the Trial Court could not have granted maintenance of Rs.50,000/- to the opposite party/wife by the appellant.

5. Counsel for the appellant submits that the finding of the Trial Court that the application for sanction to prosecute as a result of a dubious attempt by the appellant/husband to somehow implicate the wife in the criminal proceedings and prosecute her and used that as leverage to obtain higher maintenance, is completely misplaced. It is further submitted that in view of the decision of the Hon'ble Supreme Court of India in the case of **Rajnesh – Vs. – Neha & Anr.** reported in **(2021) 2 Supreme Court Cases 324**, particularly paragraph 72.8 thereof, the Trial Court was obliged to grant sanction to prosecute the opposite party/wife.

6. This Court firstly notes that whether or not to grant leave and sanction to prosecute a party is within the exclusive domain of a Court, the applicant does not have any vested right to *ipso facto* obtain sanction.

7. In any event, the observation of the Hon'ble Supreme Court of India in the case of **Rajnesh** (supra) was to the following effect i.e. “the Court may consider initiation of proceedings under Section 340 of the Code of Criminal Procedure and for Contempt of Court”.

8. It further appears that the appellant has challenged the order of maintenance passed by the Trial Court, before a Single Bench of this Court.

9. Having regard to the above, this Court is of the view that the impugned order passed by the Trial Judge refusing sanction to prosecute is discretionary

and this Court finds no reason to interfere with the same.

10. F.M.A.T. 457 of 2025 shall stand disposed of without any orders.

11. The Single Judge of this Court in C.O. 4557 of 2025 shall proceed in the matter uninfluenced by any of the observations made hereinabove.

12. In view of disposal of the appeal itself, the connected application being CAN 1 of 2025 shall also stand disposed of.

13. There will be no order as to costs.

14. All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)

(Rai Chattopadhyay, J.)