

**IN THE COURT OF ADDITIONAL DIST. & SESSIONS JUDGE KALNA,  
PURBA BARDHAMAN**

**Present:** Shri Chiranjib Bhattacharya (JO Code-WB00718)  
Additional Sessions Judge, Kalna  
Purba Bardhaman.

**Criminal Revision No. 14 of 2025**

CNR No.WBBD11000536-2025

Atashi Biswas @ Pal ..... Revisionists.

-VS-

1. Ajoy Kumar Pal

2. State of West Bengal ..... Respondents.

Date of delivery of judgment : 14.07.2026

## J U D G M E N T

Present revision application has been filed against the order dated 26.02.2025 passed by Ld. Addl. Chief Judicial Magistrate, Kalna Purba Bardhaman, in Misc case number 122/2021.

Brief fact giving rise to the present revision application is that, the petitioner filed Misc. case no.122 of 2021 before Ld. ACJM, Kalna praying for maintenance at the rate of Rs.18,000/- for herself and Rs.8,300/- per month for her minor son.

In the said petition petitioner claimed that she was a divorcee having a son from her previous marriage and with full knowledge about her condition OP developed relationship with her and married her in 2019 at Kalna Siddheswari temple according to Hindu rites and customs but the fact of marriage was kept concealed from the parents of OP. Subsequently on 4.7.2021 OP informed his family members about such marriage which resulted in disturbance in the family of the OP and OP stopped to live with the petitioner. Since then, OP also stopped paying any maintenance to the petitioner and her son. Since OP was a school teacher having monthly salary of Rs.70,000/- and the petitioner being unable to maintain herself and her minor son, they prayed for the relief mentioned above.

OP contested the claim of the petitioner by filing written objection in which it was claimed that petitioner was not married with OP, neither OP is the

father of the minor son of the petitioner and the case was filed by the petitioner after preparing forged documents only to harass the OP.

Subsequently, on 21.11.2024, a petition was filed by the petitioner praying for amendment of the petition incorporating the fact that the marriage in between the parties was solemnized on 22.4.2021 in accordance with the provision of Special Marriage Act and deleting the claim of maintenance for the minor son of the petitioner.

After contested hearing Ld. ACJM, Kalna by the impugned order partly allowed the prayer. The prayer for deleting the claim for the minor son was allowed but incorporation of the fact of marriage according to Special Marriage Act on 22.04.2021 was rejected.

Being aggrieved, and dissatisfied by the said order present revision application has been filed.

### **POINTS FOR DETERMINATION**

The points for determination of the present revision are :

1. Is the Ld. Magistrate justified in rejecting the prayer to incorporate the fact of marriage in accordance with Special Marriage Act?
2. Does the order dated 26.02.2025 suffer from any illegality that calls for interference by this court?

### **DECISION WITH REASON**

Both the points are taken up together for consideration.

At the time of hearing it was submitted by Ld. Advocate for the petitioner that the petitioner only intended to incorporate the fact of marriage by way of such amendment and it is not clear why the prayer was refused. He further submits that merely by incorporating the fact, case of the petitioner will not be proved and she has to adduce evidence to establish the fact. He further submits that if the prayer is not allowed, petitioner will be prejudiced as she would be debarred from leading evidence on this point.

Ld. Advocate for the OP while objecting to the prayer submitted that the petitioner filed a certificate of marriage stating the marriage was solemnized on 2019 whereas age of her child is 12 years which is an absurd proposition. He

further submitted that the prayer was made at the stage of evidence and not earlier and the information obtained by OP through RTI application shows that the claim of the so called marriage is false. He further submitted that in the affidavit of Assets and Liabilities petitioner mentioned that she married OP in 2019 but divorced her previous husband in 2021 suggesting that the marriage was invalid and by way of amendment petitioner intends to destroy the advantage gained by the OP on the basis of such facts and Ld. Magistrate was completely justified in rejecting the prayer.

The provision of amendment is not available in criminal proceedings but considering the fact that maintenance proceedings under Sec. 125 CrPC are civil in nature, as held by the Apex Court in **Jagir Kaur Vs. Jaswant Singh, (AIR 1963 SC 1521)**, the Magistrate may allow any such prayer. On perusal of the impugned order it appears that Ld. Magistrate rejected the prayer on the ground that incorporation of such facts will change the nature and character of the case specially when the marriage between the parties is not admitted by the OP.

In the present case first marriage of the petitioner was not denied by the petitioner as she had claimed herself to be a divorcee. In the petition it was claimed by the petitioner that her marriage with OP was solemnized in 2019 according to Hindu rites and customs. Now the petitioner intends to incorporate the fact that the marriage was solemnized on 22.04.2021 as per Special Marriage Act. It has been submitted by Ld. Advocate for the OP that an application under RTI Act was submitted before the Marriage Officer namely, Ruma Raut about genuineness of the certificate of marriage submitted by the petitioner and in reply to that query it was informed by the Marriage Officer that the certificate was fake and no such certificate was issued from the office of Marriage Officer Ruma Raut. From the record it appears that the documents in support of the contention of Ld. Advocate for the OP are lying with the record.

There is no denial that by incorporating a fact in the petition its existence is not proved but said fact has to be proved by leading cogent evidence. However, when the marriage was claimed to have been performed according to Hindu rites and customs in 2019 and it was also claimed that the marriage was registered, subsequent change of stance that the marriage was solemnized in 2021 according to Spl. Marriage Act appears to be substantial alteration of facts, as, not only the year, but also the mode of marriage has sought to be changed.

Apart from that, no prima facie proof in support of such claim could be produced by the petitioner to impress upon the court that it was a genuine mistake which requires to be corrected. It can be seen from the record that there is material to suggest that no marriage of the parties, as claimed by the petitioners, took place on 22.04.2021 and there is no material on the basis of which such a claim can be allowed.

Therefore, in my opinion, Ld. Magistrate was completely justified to reject the prayer and the impugned order does not suffer from any illegality that calls for interference from this court.

It is, therefore -

O R D E R E D

that the revisional application fails and the order dated 26.02.2025 passed by Ld. Addl. Chief Judicial Magistrate, Kalna Purba Bardhaman, in Misc case number 122/2021 is affirmed.

Copy of this judgment along with TCR of Misc case number 122/2021 be sent to the Court of Ld. Addl. Chief Judicial Magistrate, Kalna for information and necessary action.

Dictated & Corrected

by me

Addl. Dist. & Sessions Judge,  
Kalna.

Addl. Sessions Judge. Kalna.