

West Bengal Form No. 3702

HIGH COURT FORM NO. (J) 3

HEADING OF JUDGEMENT IN CRIMINAL MOTION

District : Hooghly

In the Court of Additional District and Sessions Judge,

1st Court, Chinsurah, Hooghly

Present : Rintu Sur (J.O WB00877)

Addl. Dist. & Sessions Judge, 1st Court,

Chinsurah, Hooghly.

Dated 25th day of June, 2026

Criminal Motion No. 60 / 2025 (Reg No. 60/2025)

(CNR WBHG01-001845-2025)

**Arising out of the order dt. 01.03.2025 passed by the Ld. Judicial
Magistrate 5th Court, Hooghly in Misc Execution Case No. 42 / 2015.**

Sourav Giri

.....Petitioner

Versus

Bipasa Nandi

.....Opposite Party

JUDGEMENT

1. The instant Criminal motion is directed against the interim order dt. 01.03.2025 passed by the Ld. Judicial Magistrate 5th Court, Hooghly in connection with Misc Execution Case No.42 / 2015 filed by the opposite party/wife.

2. The above named petitioner is the opposite party/husband in Misc Execution Case No. 42 / 2015 pending before the Ld. Judicial Magistrate 5th Court, Hooghly. In the above Misc Execution Case, opposite party/wife filed application for arrear maintenance from 10.06.2015 to 09.06.2016 for Rs.96,000/-, from 10.06.2016 to 09.06.2017 for Rs.96,000/- and on 19.08.2023 for Rs. 5,81,000/- and finally on 14.07.2024 for Rs.6,19,500/-. The petitioner/husband challenged the maintainability of the applications filed by the opposite party/wife and after contented hearing Ld. Trial Court was pleased to allow the application filed by the opposite party/wife. Being aggrieved and dissatisfied with the said order opposite party/husband filed the instant criminal motion challenging the order dt. 01.03.2025 on the following grounds :-

- a) That the impugned order of the Ld. Magistrate was erroneous and arbitrary and not sustainable in law.
- b) That the Ld. Judicial Magistrate has failed to appreciate the law and facts in proper perspective and thereby came to erroneous finding and conclusion.
- c) That the Ld. Magistrate misunderstood the law and facts and thereby came to an erroneous finding resulting miscarriage of justice.
- d) That the Ld. Court below overlooked the material facts to the prejudice of the petitioner/husband and as such the order appears to be vitiated.
- e) That the Ld. Trial Court should have considered the petition for stay first before allowing the application filed by the opposite party/wife.
- f) That the court below over looked the basic principles of law and came to an erroneous finding and as a result, the impugned order is liable to be set aside.

: Points of consideration :

3. In view of the rival contention of the parties the points for consideration which arises in the instant Criminal revision are whether the impugned order passed by the Ld. Judicial Magistrate 5th Court, Hooghly was justified or whether the impugned order dt. 01.03.2025 required to be interfered with.

: Decision with reasons :

4. In course of argument Ld. Counsel appearing on behalf of the petitioner submitted before the Court that the petitioner/husband filed an application to stay all further proceeding in execution case till disposal of his application wherein he

challenged the right of the opposite party/wife who already married to another person but suppressed the same before the Ld. Trial Court. He further submitted that interim order of maintenance and final order was passed exparte and the petitioner/husband filed an application for setting aside the aforesaid orders which was registered as misc case no. 242 / 2024 and also prayed for stay of all further proceeding in misc execution case no. 42 / 2015. He further submitted that during pendency of his applications, the opposite party/wife filed two separate petitions claiming arrear maintenance of Rs.6,19,500/- which was allowed by the Ld. Trial Court and directed the petitioner/husband to pay such amount without disposing of his application for stay which was bad in law and liable to be set aside.

5. On the other hand Ld. Advocate for the opposite party/wife submitted before the Court that petitioner/husband did not pay anything towards maintenance in compliance of the order passed by the Ld. Trial Court and till date Rs.6,19,500/- is due as arrear maintenance. He further submitted that the Ld. Trial Court rightly passed the order directing the petitioner/husband to pay the arrear maintenance which was according to law and the petitioner/husband is bound to obey that order.

6. In course of argument Ld. Advocate for the petitioner/husband has admitted that huge amount is pending as arrear maintenance but submitted that the petitioner/husband previously was employed with a merchant navy but he lost his job due to criminal proceeding initiated by the opposite party/wife who remarried after getting decree of divorce. Ld. Advocate for the the petitioner further submitted that the petitioner/husband is practically unable to pay maintenance or arrear maintenance directed by the Ld. Trial Court as he is jobless at present.

7. On perusal of the order impugned I find that opposite party/wife submitted several application for arrear maintenance and till 01.03.2025 Rs.6,19,500/- was due as arrear maintenance. It is the undisputed facts that Sec. 125 of Cr.P.C is a measure of social legislation and it has to be construed barely for the welfare and benefit of the agreed person and it is unreasonable to insist on filing successive application when the liability to pay maintenance under Sec. 125(1) Cr.P.C is a continuing liability and the petitioner/husband is bound to obey the order of

maintenance for his wife and minor child. From the findings and observation of the Ld. Trial Court I do not find anything illegal or improper to interfere and the Ld. Trial Court rightly pass the order directing the petitioner/husband to pay arrear maintenance.

8. The aforesaid discussion leaves me satisfied to conclude that in the facts and circumstances of the present case the order dt. 01.03.2025 passed by the Ld. Judicial Magistrate 5th Court, Hooghly is justified and proper and does not require any interference of this court. Resultantly, the order impugned is affirmed.

Therefore, the instant criminal motion fails

Hence, it is,

ORDERED

that the instant Criminal Motion being no. 60 / 2025 filed by the petitioner/husband stands rejected on contest without cost.

The order dt. 01.03.2025 passed by the Ld. Judicial Magistrate 5th Court, Hooghly is hereby affirmed.

Let the T.C.R along with a copy of this judgement be sent down at once to the Ld. Judicial Magistrate 5th Court, Hooghly for information and necessary compliance.

Dic. & Corr. By Me:-

Sd/- R. Sur
Addl. Dist & Sessions Judge
1st Court, Hooghly.

Sd/- R. Sur
Addl. Dist & Sessions Judge
1st Court, Hooghly.