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**IN THE COURT OF ADDITIONAL SESSIONS JUDGE
RAGHUNATHPUR, PURULIA**

**Present : Sri Tarak Nath Bhagat,
Addl. Sessions Judge,
Raghunathpur, Purulia.**

**Criminal Revision No. 23/2025
CNR No. WBPU05-000400-2025
J.O. Code No. WB00564**

U/S 397/399 of BNSS

Gobinda Majhi Petitioner/Revisionist.

: V E R S U S :

1. Sunita Devi
2. State of West Bengal

..... Opposite parties.

Sri Parimal Chowdhury
(Ld. Advocate)for Petitioner/ Revisionist

Hafizuddin Ansary
(Ld. Advocate) for O.P. No.1

The judgment delivered on : 03.08.26

J U D G M E N T

In this criminal revision the order dt. 25.09.2025 passed by Ld. ACJM, Raghunathpur in Misc Case no. 47/2025 has been assailed by the petitioner/revisionist.

The fact for institution of the revisional application is that the petitioner is the husband of the opposite party. The opposite party instituted a proceeding under Section 144 of the Bharatiya Nagarik Suraksha Sanhita, 2023, being Misc. Case No. 47 of 2025, before the Court of the learned Judicial Magistrate, praying for maintenance along with interim maintenance.

The petitioner entered appearance in the said proceeding and filed his written objection denying the allegations made in the application. The petitioner specifically contended that he is a daily wage labourer having a meagre income and that the allegations

regarding his income and financial capacity were false, exaggerated, and unsupported by any documentary evidence.

Upon hearing the parties, the learned Judicial Magistrate, by Order No. 11 dated 10.07.2025, was pleased to allow the application for interim maintenance in part and directed the petitioner to pay a sum of ₹4,500/- per month to the opposite party with effect from the date of filing of the application.

The petitioner submits that while passing the impugned order, the learned Court below failed to properly appreciate the pleadings and materials available on record and fixed the quantum of interim maintenance without any reliable evidence regarding the petitioner's actual income or financial capacity.

Being highly aggrieved by and dissatisfied with the said Order No. 11 dated 10.07.2025 passed by the learned Judicial Magistrate in Misc. Case No. 47 of 2025, the petitioner has been constrained to prefer the present revisional application before this Hon'ble Court on the facts and grounds stated hereinbelow.

Learned counsel for the revisionist submits that the impugned order is illegal, arbitrary, and contrary to the materials available on record. It is contended that the learned Court below failed to appreciate that there was no documentary evidence to establish the actual income or financial capacity of the revisionist and yet proceeded to fix the quantum of interim maintenance merely on presumptions.

It is further argued that the learned Magistrate ignored the specific defence of the revisionist that the opposite party had voluntarily deserted the matrimonial home without sufficient cause and that the allegations made by her were disputed questions of fact requiring adjudication upon evidence.

Learned counsel further submits that the learned Court below failed to assign cogent reasons for arriving at the quantum of ₹4,500/- per month and mechanically passed the impugned order without

proper application of judicial mind, thereby causing serious prejudice to the revisionist.

It is, therefore, prayed that the impugned order dated 10.07.2025 passed in Misc. Case No. 47 of 2025 be set aside and the present revision be allowed.

Learned counsel for the Opposite Party No. 1 submits that the impugned order is well reasoned, legal, and based on the materials available on record. It is contended that the relationship between the parties is admitted and that the revisionist, being an able-bodied person, is under a statutory obligation to maintain his legally wedded wife.

It is further submitted that the learned Magistrate rightly observed that the allegations regarding desertion and other disputed facts can only be decided after full-fledged trial and cannot be made a ground to deny interim maintenance. The quantum awarded is modest and reasonable, keeping in view the needs of the wife and the earning capacity of the revisionist.

Learned counsel, therefore, prays for dismissal of the revisional application and for affirmance of the impugned order as the same suffers from no illegality, impropriety, or jurisdictional error warranting interference by this Hon'ble Court.

None appears on behalf of OP No.1/State.

NOW THE POINT FOR CONSIDERATION:-

Whether the learned Judicial Magistrate committed any illegality, impropriety, or material irregularity in passing the impugned Order No. 11 dated 10.07.2025 in Misc. Case No. 47 of 2025 under Section 144 of the Bharatiya Nagarik Suraksha Sanhita, 2023, warranting interference by this Court in exercise of its revisional jurisdiction.

DECISION WITH REASONS :-

I have carefully considered the submissions advanced by the learned counsel appearing for both the parties. I have also

meticulously gone through the lower court records and the impugned Order No. 11 dated 10.07.2025 passed by the learned Judicial Magistrate in Misc. Case No. 47 of 2025.

There is no dispute with regard to the marital relationship between the parties. It is also well settled that an application for interim maintenance is to be decided on a prima facie assessment of the materials available on record, and the disputed questions of fact raised by either party are matters to be adjudicated upon during the trial. Therefore, the learned Magistrate cannot be faulted for declining to finally adjudicate the rival allegations at the interlocutory stage.

However, it appears from the impugned order itself that no documentary evidence was produced by either side regarding the actual income of the revisionist. In spite of such absence of cogent material, the learned Magistrate assessed the quantum of interim maintenance at ₹4,500/- per month. While an able-bodied husband cannot evade his statutory obligation to maintain his legally wedded wife merely on the plea of insufficient income, the quantum of interim maintenance must also be reasonable and commensurate with his probable earning capacity and other financial obligations as apparent prima facie.

The records further reveal that the revisionist is required to maintain his two sons and also look after his aged mother. These responsibilities cannot be overlooked while determining the amount of interim maintenance payable to the opposite party. The object of granting interim maintenance is to provide immediate financial assistance to the wife and not to impose an excessive burden upon the husband beyond his apparent means.

Considering the totality of the facts and circumstances of the case, this Court is of the considered opinion that the direction to pay interim maintenance does not call for interference. However, the quantum fixed by the learned Magistrate appears to be on the higher side in the absence of satisfactory proof regarding the revisionist's income.

Having regard to the totality of the facts and circumstances, the steady rise in the cost of living, the absence of reliable evidence regarding the exact income of the revisionist and the requirement of awarding a just, fair and reasonable amount of maintenance, this Court is of the considered opinion that the enhancement of maintenance to Rs.4500/- per month is on the higher side. The ends of justice would be adequately served if the monthly interim maintenance payable to the Opposite Party No.1 is modified to Rs.3,500/- (Rupees three thousand five hundred only) instead of Rs.4,500/- (Rupees Four Thousand Five Hundred only).

The instant Criminal Revision is thus succeeds in part.

C.F. paid is found correct.

Hence, it is

Ordered

that the **Criminal Revision No. 23/2025** succeeds in part on contest. Accordingly, the impugned Order No. 11 dated 10.07.2025 passed by the learned Judicial Magistrate in Misc. Case No. 47 of 2025 is modified to the extent that the revisionist shall pay interim maintenance to the opposite party at the rate of **₹3,500/- (Rupees Three Thousand Five Hundred only) per month** instead of **₹4,500/- (Rupees Four Thousand Five Hundred only) per month**, from the date fixed by the learned Magistrate. Save and except the aforesaid modification in the quantum of interim maintenance, the remaining part of the impugned order shall remain unaltered.

Thus the instant revisional application is disposed of.

Let a copy of this order along with TCR be sent to Id. Trial Court for information.

Sd/-

Additional Sessions Judge
Raghunathpur, Purulia