



**Criminal Motion 477 of 2024**

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***Bapan Ali Molla V. Sonali Bibi & Anr.***

**IN THE COURT OF THE ADDITIONAL SESSIONS JUDGE,  
FTC VIII, ALIPORE, SOUTH 24 PARGANAS.**

<b>Present</b>	Monikuntala Roy (WB01088) Additional Sessions Judge, Fast Track 8 <sup>th</sup> Court, Alipore, South 24 Parganas.
<b>Criminal Motion No.</b>	477 of 2024 (R-No.3 of 2025)
<b>CNR</b>	WBSP04-000065-2025
<b>Revision/Motion Under Sections</b>	397/399 of Cr.P.C / 438/440 of BNSS
<b>Order Under Challenge</b>	Order dated 21.09.2024 passed in connection with ACM-371 of 2024, by the Ld. JM, 4 <sup>th</sup> Court, Alipore
<b>Revisionist/Husband</b>	Bapan Ali Molla
<b>Represented By</b>	Ld. Advocate. Azharuddin Molla
<b>Respondent No. 1/Wife</b>	Sonali Bibi
<b>Represented By</b>	Mujibar Rahaman Halder, Ld. Advocate
<b>Respondent No. 2</b>	The State of West Bengal
<b>Represented By</b>	Dipayan Ghosh, Ld. P.P. in charge
<b>Date Of Filing Of Appeal Before Ld. Sessions Judge, South 24 Parganas , Alipore</b>	25.11.2024
<b>Date Of Receipt Of Record By This Court</b>	29.04.2025
<b>Date on which hearing was fixed</b>	05.03.2026
<b>Date of the Judgment</b>	05.03.2026

**J U D G M E N T**

**Curtain raiser :-**

1. The instant Criminal Motion has been preferred by Bapan Ali Molla, the opposite party/husband in the Ld. Trial Court, against



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the impugned order dated 21.09.2024 passed in connection with ACM-371 of 2024, by the Ld. JM, 4<sup>th</sup> Court, Alipore, apropos allowing the maintenance case exparte against the O.P/husband and awarding maintenance to the tune of Rs. 9,000/- per month to the respondent no. 1/wife from the date of filing of the application that is from 03.05.2023.

**Grounds of Revision/Motion:**

2. By filing the instant Criminal Motion, the revisionist herein has challenged the impugned order on the ground that the impugned order could not have been passed and the same lacks prudence and feasibility.

**Lexscripta**

3. It is trite law that in absence of the O.P exparte order can very well be passed that an interim order of maintenance, while dealing with a case under section 125 of CrPC, can be passed, as the provision relates to maintenance of destitute ladies, so that they do not die of starvation.

4. Doctrine of prudence also says, that a court is to see that the amount should not be onerous to any of the sides, pari passu a court is also to take note of the fact that the award so given should be a balanced one, having regard to the documents on record.

5. Attention is also required to be had to the settled precedents of the Constitutional Courts in this regard.

**Points for determination**

6. The following points are required of to be ruminated for apt disposal of the Criminal Motion.

*(i) Whether the order passed by Ld. JM, 4<sup>th</sup> Court, Alipore on 21.09.2024 in ACM 371 of 2024 was as per statute?*



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*(ii) Whether the said order is illegal, incorrect and improper?*

**Of the revisionist**

7. The revisionist despite repeated calls did not appear and has also not taken any steps.

8. It appears from the record and the Memo of Motion that the impugned order has been challenged on the ground of the same being exorbitant, thereby affecting the cause of the revisionist/husband.

9. The Motion has been preferred on the score that the impugned order, suffers for being illegal, incorrect and improper and requires to be set aside.

**Respondent no. 1**

10. The respondent no. 1/ wife despite repeated calls did not appear and has also not taken any steps. Accordingly matter was taken up for disposal on merit.

**Of the respondent no. 2**

11. Ld. PP-in-charge on behalf of State prayed for necessary order.

**Decision with reasons**

12. The essence of cases relating to maintenance is to give a source of sustenance to a destitute lady, who is striving for food, shelter and decent living.

13. There is no straight jacket formula for fixing up a quantum of monetary relief and a careful and just balance is to be drawn between all relevant factors. Of course, a court should be aware of the fact that the provision relating to maintenance is



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brought into force to give relief to destitute ladies, but the postulation of beneficial legislation does not mean that a court should remain blind folded to the cause of the other side and would mechanically invoke the provision and pass preposterous and immoderate amount. Amount should be realistic, reasonable and avoid the extremities of extravagance and penury and pertinent to the stage of the case, when its so awarded. The object behind right to maintenance is to ensure that the wife is not reduced to destitution or vagrancy on account of failure of marriage & simultaneously, the award shall not be as a punishment to the other spouse. An interim order should be to such an extent so that it serves the purpose of proper sustenance of a party applying with reasonable comfort.

14. It is limpid from the record that the Ld. Trial Court after due consideration of the contending contentions of both sides have passed the impugned order which stands quite justified and apt for sustenance of a destitute lady.

15. Had the Ld. Trial Court acted otherwise than passing the impugned order, then he would have acted against the principle of beneficial legislation.

16. On all scores, the order of the Ld. Trial Court calls for no interference.

17. On perusal of the record and the documents and chronicle so referred to above, I do think that it would be proper for this court not to intervene with the order under challenge vide this Criminal Motion.

**Edict**

18. In the result, the instant Criminal Motion fails. Memo of Revision/Motion is found sufficiently stamped.



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**Hence, it is,**

**O R D E R E D**

19. That, as a Criminal Revision/Motion is always to be disposed of on merit by determining the legality, propriety and correctness of the order under challenge, the instant Criminal Motion be and the same is dismissed on contest without any order as to costs.

20. The impugned order dated 21.09.2024 passed in connection with ACM 371 of 2024 by the Ld. JM, 4<sup>th</sup> Court, Alipore, stands ratified.

21. The copy of this judgment, be right away remitted to the Court of Ld. JM, 4<sup>th</sup> Court, Alipore, for information and necessary action.

22. Make necessary noting in the Germane Register.

23. Let a soft copy of this judgment be uploaded in the CIS as per the modalities of the Criminal Rules and Orders of the Hon'ble High Court, Calcutta.

24. The judgment is pronounced and delivered in open Court on 5<sup>th</sup> day of March, 2026.

**Dictated & corrected**

**Monikuntala Roy**  
***Additional Sessions Judge,***  
***Fast Track 8<sup>th</sup> Court, Alipore***  
***South 24 Parganas***

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***South 24 Parganas***



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Memo No.                      dated

Let a copy of the order be sent to Ld. Judicial Magistrate, 4<sup>th</sup> Court, Alipore, South 24 Parganas in connection with Criminal Motion No.477 of 2024 arising out of ACM-371 of 2024 for information and doing the needful.

**Monikuntala Roy**  
***Additional Sessions Judge,***  
***Fast Track 8<sup>th</sup> Court, Alipore***  
***South 24 Parganas***