

**HEADING OF JUDGEMENT OF APPELLATE COURT
COURT OF SESSIONS/MAGISTRATE, APPELLATE
JURISDICTION.**

CRIMINAL REVISION No.17 of 2025.

C.I.S. No.58/2025.

C.N.R No. WBSP07 0002563 2025.

Revisional application assailing the order dated 07.07.2025 passed by Ld. Judicial Magistrate, 1st Court, Sealdah in connection with Maintenance Case No.132/2024, U/Sec.144 of B.N.S.S.

Meena Rajbanshi Nee Routh

.....Revisionist/Petitioner.

Vs.

1. Kabir Rajbanshi and

2. The State of West Bengal

.....Respondents/Opposite Parties.

Heard argument on 24.02.2026

in presence of

Sk. Saiful Hossain

.....Ld. Advocate for the Revisionist.

and

Sri Subhodeep Dhara and Suparna Das.

..... Ld. Advocates for the O.P No.1.

Date of delivery of Judgement :- 06.03.2026.

Present : Parna Bhattacharya

Additional Sessions Judge, Fast Track,

2nd Court, Sealdah,

JO Code WB01015.

This instant Revisional application U/Secs.397/399 of Cr.P.C has been preferred against order dated 07.07.2025 (hereinafter simply referred to as the impugned order) passed in Maintenance Case No.132/2024 by Ld. J.M, 1st Court, Sealdah.

Record of M. Case No.132/2024 has been received from the Court of Ld. J.M, 1st Court, Sealdah.

O.P No. 1 (hereinafter simply referred to as the O.P) appeared before this Court and contested the Revisional Application.

GROUND FOR REVISION:

- 1) That the order dated 07.07.2025 is bad in law and untenable.
- 2) That the Ld. Trial Court did not consider that the revisionist has no source of income and did not consider the status and dignity of the petitioner.
- 3) That the Ld. Judicial Magistrate did not apply judicial mind at the time of passing impugned order dated 07.07.25.

FACTUAL BACKGROUND:

Before delving into the merits of this Criminal Revision filed u/sec.397/399 of Cr.P.C, it is necessary to have a glance regarding the facts as stated by the parties to this case.

The case in a succinct form is that the marriage between the Revisionist and O.P. no.1 was solemnized on 10.07.22 according to Hindu Rites & Customs. At the time of marriage, the petitioner was presented with cash, jewellery and several expensive articles. Thereafter, the revisionist went to her matrimonial home. Since inception of her marriage she was subjected to both physical and mental torture by the Opposite Party no.1 on various pretext. He also demanded more dowry. Finally the petitioner was compelled to take shelter at her parental home due to constant torture. All the efforts for amicable settlement of the discord did not yield any positive outcome. Thus the petitioner has filed interim maintenance of Rs.20,000/- per month for herself.

The Opposite Party No.1/husband by filing Written Objection has denied all the contentions of the petitioner, save and except marriage. It is the specific contention of the OP no.1 that the revisionist has left her matrimonial home, voluntarily and out of her own accord. Moreover, the opposite party no.1 earns Rs.6,000/- per month. Thus, the opposite party no.1 has prayed for rejection for petition for interim maintenance.

POINTS FOR DETERMINATION:

Whether the Judgment as passed by Ld. Trial Court is erroneous and liable to be set aside?

Head Ld. Advocate on behalf of both sides at length.

Also, perused the materials available on record.

DECISION WITH REASONS:

Before taking a dip regarding the merits of the Revision it is pertinent to point out that according to statutory mandate as delineated u/sec.397 of Cr.P.C any Sessions Judge may call for an examined the record of any proceeding before any inferior Criminal Court situate within its local jurisdiction for the purpose of satisfying itself as to correctness, legality or propriety of any order passed as envisaged in sub-section (1) of Sec.397 of Cr.P.C. However, sub-section 2 of Sec.397 postulates that the powers of revision as conferred by sub-section (1) shall not be exercised in relation to any interlocutory order passed in trial or other proceeding. (Corresponding to Sec.438 of BNS read with Section 440 of BNS, 2023).

Hon'ble Apex Court in **Girish Kumar Suneja Vs. Central Bureau of Investigation (2018) 1 SCC (Cri.) 202** prefers the expression 'intermediate order' since back brings out the nature of the order more explicitly.

In **Madhu Limaya Vs. State of Maharashtra (1977) 4 SCC 551** Hon'ble Apex Court was pleased to lay down the principle that an intermediate order is one which is interlocutory in nature but when reversed it has the effect of terminating the proceedings and thereby resulting in a final order.

Before elaborating about the merits of Criminal Revision 03/24, it is pertinent to point out that in **Chaturbhuj Vs. Sitabai (2008) 2 SCC 316, Hon'ble Apex Court** has held that the object of maintenance proceeding is to prevent vagrancy by compelling those who can provide support to those who are unable to support themselves and who have a moral right to claim support. It gives effects to fundamental rights and natural duties of a man to maintain his wife/children and parents when they are unable to maintain themselves.

Again **Hon'ble Apex Court in Captain Ramesh Chander Kaushal Vs. Mrs. Veena Kaushal and Ors. AIR 1978 SC 1807** has observed inter alia that the provision of Sec.125 of Cr.P.C is a measure

of social justice and specially enacted to protect women and children and falls within the constitutional sweep of Article 15(3) reinforced by Article 39 The brooding presence of constitutional empathy for the weaker section like women and children must inform interpretation if it has to have social relevance. Further, Apex Court has reiterated the said legal proposition in **Sabita Ben Somabhai Bhatiya Vs. State of Gujrat and Ors. 2005 (2) SC 503** and highlighted that the provision gives effect to the natural and fundamental duty of a man to maintain his wife children and parents so long they are unable to maintain themselves.

In **Mannava Satyawati Vs. Mannava Malleswara Rao, 1995 SCC (Cri) 836**, the Hon'ble Supreme Court was pleased to observe that while the court in dealing with such applications a destitute wife or hapless children and parents, the Court should bear in mind that it is dealing with the marginalized sections of the society to achieve 'social justice' which is the Constitutional version enshrined in the preamble of the Constitution of India.

It is noteworthy to mention in this regard that in today's world in a civilized society it is not expected that the petitioner being a woman brought up in a decent surrounding and atmosphere has to run from pillar to post to earn her livelihood, when her husband being an able bodied person is still alive. Furthermore, there is no adinicular evidence on record to presume conclusively that the petitioner has independent source of income in order to sustain her livelihood while taking into account the standard of life and requirement of the petitioner.

Be it in-germinated that Hon'ble Apex Court in **Bhuvan Mohan Singh Vs. Meena and Ors.** was pleased to observe that Section 125 of Cr.P.C was conceived to ameliorate the agony anguish and financial suffering of a woman who left her matrimonial home for the reasons provided in the provision so that some suitable arrangements can be made by the Court and she can sustain herself and also her children, if they are with her. The concept of sustenance does not necessarily mean

to lead the life of an animal, feel like an unperson to be thrown away from grave and roam for her basic maintenance somewhere else. She is entitled in law to lead a life in the similar manner as she would have lived in the house of her husband. That is where the status and strata come to play and that is where the obligation of the husband in case of a wife becomes a prominent one. In a proceeding of this nature, the husband cannot take subterfuges to deprive her of the benefit of living with dignity. Regard being had to the solemn pledge at the time of marriage and also in consonance with the statutory law that governs the feel, it is the obligation of the husband to see that the wife does not become a destitute, a beggar. In fact it is crosant duty to render the financial support even if the husband is required to earn money with physical labour, if he is able bodied. There is no escape route unless there is an order from the Court that the wife is not entitled to get maintenance from the husband or any legally permissible grounds. And in absence of any contrary evidence on record, it is to be presumed at this stage that the Opposite Party is an able bodied person, who has sufficient capacity to maintain the petitioner, being his legally weded wife.

Be whatever it may, the Opposite Party being an able bodied, hail and hearty man is bound to maintain the petitioner, who is legally married wife and daughters. If propels me to think whether a woman having children of any pious religion would voluntarily go to her parental home risking to severe her marital ties and consequently dragged a wrath of her husband in form of desertion and hatred for being castigated as ominous and put the future of her children at stake. It must not be forgotten that our orthodox society even in this era of modernization has not stripped itself of the social dogma of accepting a woman with benevolence who is abandoned or deserted by her husband, instead society look at her with hatred indignation and contempt. In such a social fabric it is highly unlikely for a woman to act in a way which would ultimately risk in severance of her nuptial tie and court a risk of exposing her children to vagrancy of nature is hardly

perceptible. On the contrary the version of the petitioner is more believable and seems to be weighted with circumstances, revolving the case. The whole gamut of circumstances, therefore justify her case.

To find this, I need not to travel much as answer life in the pleading of both the parties. If the Opposite Party is not paying her a single farthing, the last resort is left her to knock the door of the Court, as it pinches her pocket hard, as the Opposite Party has left her high and dry. In this context, there is no gain in saying that Sec.125 of Cr.P.C is the measure social justice and especially enacted to protect the woman and children – **Jagdish Vs. Manjulata(2002) 5 SCC 422.**

Admittedly, the revisionist is the legally wedded wife of the opposite party no.1. There is no evidence on record to show that the opposite party no.1/husband has maintained the Revisionist/wife or that the said Revisionist/wife has independent source of income or that the Revisionist has left her matrimonial home out of her own volition.

This is also not oblivious of the fact that the benign provisions of Sec.144 of B.N.S.S provide inter alia maintenance for wives, children and parents:- 1) if any person having sufficient means neglects or refuses to maintain

a) his wife, unable to main herself,

b) his legitimate or illegitimate minor child, whether married or not, unable to maintain itself, or

c) his legitimate or illegitimate child (not being a married daughter) who has at a majority, where such child is, by reason of any physical or mental abnormality or injury unable to maintain itself.....

Regarding the income of the Opposite Party, it can be safely concluded that the Opposite Party is healthy able bodied and has enough means to part with Rs.4,000/- per mensem towards the Revisionist/wife to prevent her from vagrancy, starvation and destitution as envisaged under the benign provision of Sec.125 of Cr.P.C, in view of the fact that both the Revisionist and Opposite Party no.1 are not residing together and that the opposite party no.1 is an able bodied person and has some income of his own.

In view of above discussion, the Order dated 07.07.2025 as passed by Ld. Judicial Magistrate, 1st Court, Sealdah stands modified in respect of quantum of interim maintenance amount.

In light of above initiated discussion, hence it is,

Ordered

that the Criminal Revision being and the same is allowed in part, on contest.

The Order dated 07.07.2025 as passed by Ld. Judicial Magistrate, 1st Court, Sealdah is hereby modified to the extent that the Opposite Party No.1/husband will pay Rs.4,000/- per mensem to the Revisionist/ wife from the date of filing of this revision i.e. 12.08.2025 by following the guidelines of Hon'ble Apex Court in **Rajnish Vs. Neha**.

The allowance shall be payable to the petitioner within 10th day of each succeeding month according to English Calander Month.

The arrear amount as accrued on and from 11.03.2025 till March, 2026 shall be payable in 10 (ten) equal installments, the first of which shall be payable on 10.04.2025.

The order as passed by this Court will remain in vogue till the disposal of Maintenance Case No.132/2024.

There is no order as to costs.

Let the original case record be sent to Ld. Judicial Magistrate, 1st Court, Sealdah for information.

Dic. & cor. by me:

Addl. Sess. Judge.
Fast Track, 2nd Court, Sealdah

Additional Sessions Judge,
Fast Track, 2nd Court, Sealdah.