



Form No.J(2)

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
APPELLATE SIDE**

Present:
THE HON'BLE JUSTICE CHAITALI CHATTERJEE (DAS)

CRR 146 of 2023

**POULAMI TARAFDAR (SAHA)
VS.
Dibesh Saha**

For the Appellant: **Mr. Dhrubajyoti Ghosh**
Mr. Saibal Mondal
Ms. Sonali Ghosh

For the State : **Mr. Balaram Patra**
Mr. Suvadip Bhattacharje

Heard On : **24. 07.2026**

Judgment On : **31.07.2026**

Uploaded On : **31.07.2026**

CHAITALI CHATTERJEE (DAS) J:

1. This revisional application has been filed by the petitioner wife against the judgement and order dated October 12, 2022 passed by the judicial magistrate Kalyani, in Misc. Case number 09 of 2021, refusing to grant monthly maintenance to the petitioner and her child and directing the present opposite party to handover Bank fixed deposit certificate of ₹11, 00, 000 in the name of minor son.



2. An application was filed by the petitioner under section 125 of the code of criminal procedure, 1973 before the learned ACJM ,Kalyani, praying for an amount of maintenance of ₹30,000 for herself and ₹20,000 per month for her child.

The marriage between the parties were solemnised on 21.11.2016 and the child was born on 18.12.2019, but marital discord cropped up between the parties and the petitioner had to lodge diary and filed a complaint under section 498A of IPC being C438 of 2020 against the opposite party. The petitioner had to take refuge to her parents home without any income of our own at the material time. On March 19, 2021 opposite party appeared and filed written objection as well as the affidavit of assets and liabilities. The learned Magistrate after considering the submissions of the respective parties disposed of the application for interim maintenance on July 27, 2022, directing the opposite party, inter alia pay ₹10, 000 per month to the petitioner for her son along with arrears from the date of filing of the case in four equal monthly instalments

3. The said amount remained unpaid for 20 months up to the date of final disposal of the case and after the evidences were adduced by judgement and order passed on October 12, 2022,the learned Magistrate disposed of the case, refusing the prayer for monthly maintenance of both the petitioner and the child, but directed the opposite party to handover the bank fixed deposit of ₹11, 00, 000 as a



security in the name of minor son to the petitioner, making her the nominee.

4. The learned advocate representing the petitioner submits that the learned magistrate initially allowed the maintenance in her favour, but later on refused to grant the same without considering that the wife is maintaining the child as well as herself and, it becomes difficult to maintain herself as well as her minor son with her sole income. In course of hearing a chart of establishment expenses in respect of the maintenance of child was filed before this court prepared in terms of direction of this court which reflects, the total expenses incurred for the year 23-2025 is 4, 81, 342/- and the amount has been paid by the opposite party is of ₹3, 70, 490 and the amount is due to be paid is ₹1, 10, 850. The learned advocate also annexed the fees details and relevant rules of PathaBhavan Montessori and Primary Department School as well as the fee structure of 2026-27 of Garden, High School. However, these documents were never placed before the learned Magistrate.

5. The advocate representing the opposite party on the other hand filed the Affidavit of exception in respect of chart submitted by the petitioner and denied the expenses shown in the chart. It is also his objection that where the petitioner claims that payments have already been made, she has failed to annex the corresponding fee receipts, invoices, or payment, acknowledgement, bank statements, or any other



contemporaneous documentary evidence, and in absence of such evidence, the chart remains an unverified statement prepared solely by the petitioner.

It is further submitted that pursuant to the direction of the learned trial court, he has already deposited 11 lakhs after taking loan, before the learned court, and he also filed the duplicate copy of interest certificate accrued on the basis of such amount. It is his contention that after making such hefty amount, he is not in a position to pay any further and the learned Court was absolutely right in passing such direction in order to secure the future interest of the child. A huge amount of interest will be accrued when the amount will be matured in 19.10.32 when the child will attain majority. It is further submitted that the court, considering the income of the petitioner did not allow the maintenance and the same order does not suffer from any infirmities to be interfered with.

6. Having heard both the learned counsel and after going through the materials on record, as well as the judgement passed by the learned Judicial Magistrate on 12.10.2022, it appears that the present petitioner during her cross-examination stated that in the year 2018, she was working as Assistant Manager in Vikram Solar Limited and in last part of 2018 joined environment solar Limited. At the time of giving evidence, she was working as Assistant Manager Tuaman engineering Limited used to earn gross salary of ₹40,000 per month. The present



petitioner appears to be well educated lady did MBA from Jadavpur University in Operation Management and PGDM. She also filed the payslip before the learned Court to show that she gets salary of ₹55,425 per month.

7. The learned trial court after considering the assets and abilities filed by the husband found that he is working in Nandan lamination and get salary of ₹50,000 per month. Regarding the income from their family business, no document was produced to show that he was the proprietor of Nandan lamination when it is admitted that his mother is the proprietor of the said Nandan lamination. It was further held that the present petitioner being the mother of the petitioner is duty-bound to maintain her son and look after her as she has also sufficient income of her own and accordingly passed the above order.

8. From the above observation, it is evident that financial status of both the parties are almost similar and it is settled proposition that both the parents are equally liable to maintain their child. The chart filed before this court was never placed before the learned trial Court in order to show the exact expenses incurred by her to maintain her child. It further appears that the child was initially studying at a reputed school at PathaBhavan in the year 2023, the child got admitted at Garden High School, IISER, Kolkata campus at MohanpurKalyani in the year 2026. It is expected that the petitioner did not admit her child where the admission fees are quite high only on the basis of the



amount of maintenance to be granted by the court and it further manifest she has sufficient means to maintain her child. Be that as it may the root cause of the objection raised by the petitioner is the order impugned whereby the amount towards maintenance of the child is directed to be made under fixed deposit, even though the said amount is of Rs. 11 lakhs.

The document furnished before this court primary shown that the opposite party has complied with the direction and a hefty amount has been fixed deposit and which would accrue a decent amount of interest, and such amount presently earns annual interest of ₹73, 774 as certified by the concerned bank.

9. It goes without saying that after the amount gets matured in the year 19. 10.2032 it would be beneficial for the child and his future expenses are secured. It is submitted by the learned advocate of the petitioner that the monthly interest is approx 6000 per month over such fixed deposit and he has no objection if the state amount is withdrawn by the petitioner for expenses towards the minor.

10. The point of objection raised that in the judgment of **Rajnesh Vs. Neha (2021) 2 SCC 324** it was never held that towards future security any amount is to be fixed deposit when the petitioner is in need of money to be spent towards day to day expenses in respect of minor.

This Court cannot be oblivious of the said aspect though there is no embargo if a father gives any amount as fixed deposit to secure the



future interest of the child but that cannot be substituted the monthly maintenance.

11. The petitioner claimed an amount of Rs. 20,000/- towards her maintenance but no material were placed to show the monthly expenses incurred towards the child to the learned Magistrate.

The amount of Rs. 11 lakh yields monthly interest of a little above of Rs. 6,000/- and the petitioners is not agreeable to such amount.

12. The further point raised that at present the petitioner is not in service and she has no income of her own, but on perusal of her petition in 2023, it is seen that she disclosed her occupation service. No further application is filed interestingly regarding such development before this Court.

This Court is in the opinion that there is no infirmity in the order impugned so far refusal to grant of maintenance to the petitioner is concerned and hence not inclined to interfere into such point of the order.

13. After giving an anxious consideration this Court is of the view that the order passed by the learned Magistrate directing the husband to make fixed deposit of Rs. 11 lakh needs interference. Since the expenses towards child were not placed before the learned Magistrate, this matter is required to be remanded back before the learned Magistrate for fresh hearing on the points of granting maintenance towards child.



14. Hence, the revisional application stands allowed in part. The portion of order directing the husband to put an amount of Rs. 11 lakh as fixed deposit is set aside.

15. Liberty is granted to the petitioner to file a fresh affidavit along with all the documents supporting her claim towards regular maintenance to the minor child.

16. The learned Court is directed to give a fresh hearing to both the parties on the point agitated and will try to dispose of the proceeding as expeditiously as possible preferably within a period of three months from the date of filing of fresh affidavits.

17. It is pertinent to mention herein that till the final disposal of the proceeding, the petitioner will be at liberty to withdraw the interest amount derived from fixed deposit of Rs. 11 lakhs towards the regular maintenance of the child.

18. The learned Court is directed to ensure in case of granting monthly maintenance in favour of the child to allow the opposite party /father to close the existing fixed deposit if he intends to do so, keeping in mind that the opposite party should not be saddled with both monthly maintenance as well as to continue with the fixed deposit made by the order of learned Magistrate.

19. Parties are directed to act on the serve copy of this order duly downloaded from the official website of this Court.



20. Urgent certified copy of the order, if applied for, be provided to the parties upon observing of all necessary requirements.

[CHAITALI CHATTERJEE (DAS) J.]

