IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
APPELLATE SIDE

PRESENT:
THE HON'BLE JUSTICE UDAY KUMAR

CRR 534 OF 2023

SAMIT PRAMANICK
-VS-
STATE OF WEST BENGAL & ORS.

For the Petitioner	: Mr. Partha Sarathi Das Md. Umer Shadique Mr. Agni Jyoti Chandra Ms. Sudipa Das
For the Opposite Party Nos. 2 & 3	: Mr. Sayantan Hazra Ms. Santanu Mukherjee Mr. Emsul Kayes Ms. Madhumita Kar
Reserved on	: 10.09.2026
Pronounced on	: 21.09.2026

UDAY KUMAR, J.: –

1. By filing this criminal revisional application under Section 407 read with Section 482 of the Code of Criminal Procedure, 1973, the petitioner-husband, Samit Pramanick, has called in question the legality, propriety, and correctness of two successive interlocutory orders dated March 31, 2022, and January 10, 2023. These orders were passed by the Learned Judicial Magistrate, 3rd Court, Ranaghat, Nadia,

in connection with Misc. Case No. 388 of 2018 (arising out of Misc. Case No. 163 of 2005).

2. By the said impugned orders, the learned Trial Court concurrently repelled the challenges raised by the petitioner-husband regarding the maintainability of the maintenance proceedings initiated by the O.P. No. 2 under Section 127 of the Code on behalf of the major son, who suffers from a severe 70% physical disability.

3. The background of this legal battle goes back to year 2005, when Opposite Party No. 2 (wife, Tumpa Pramanick) instituted Misc. Case No. 163 of 2005 under Section 125 of the Code of Criminal Procedure against the petitioner-husband, seeking maintenance for herself and her minor, ailing son, Sudipta Pramanick (Opposite Party No. 3, born on November 20, 2001), alleging neglect and refusal to maintain them by the petitioner.

4. By a judgment and order dated July 6, 2012, the Trial Court delivered its verdict, dismissing the wife's personal claim for maintenance on the ground that she failed to establish her status as a legally wedded wife, as their marriage was solemnized during the subsistence of the husband’s prior valid marriage to one Suparna Pramanik (O.P.W.2) dating back to 1992 or 1993, thereby attracting the legal bar of a void second marriage. However, recognizing the indefeasible right of the child, the Trial Court unequivocally allowed the prayer for maintenance in respect of the minor disabled son, directing the husband to pay a monthly allowance of Rs. 3,000/-. The husband’s subsequent challenge to this directive through CRR No. 77 of 2014 was met with dismissal by

a Co-ordinate Bench of this Court on November 22, 2016, thereby cementing and solidifying the child's statutory right to maintenance.

5. As the son subsequently attained the age of majority, the mother filed an application under Section 127 of the Code of Criminal Procedure, registered as Misc. Case No. 388 of 2018, seeking the modification and continuation of the maintenance allowance on the ground that the son suffers from a 70% to 75% orthopedic disability and remains entirely incapable of independent sustenance. During the pendency of Misc. Case No. 388 of 2018, the husband vehemently resisted this application by filing successive interlocutory petitions (dated August 20, 2019, and October 28, 2022) praying for dismissal of the case on the sole premise of maintainability. He argued that the son had attained majority, passed Higher Secondary education, pursued an Industrial Training Institute (ITI) vocational course, and could move independently, thereby stripping the mother of any *locus standi* from initiating another maintenance proceeding under Section 127 Cr.P.C. on behalf of the said major son.

6. The Learned Judicial Magistrate rejected the husband's applications vide the impugned orders dated March 31, 2022, and January 10, 2023, holding that under the second proviso to Section 125(1) of the Code of Criminal Procedure, a major child who is unable to maintain himself by reason of physical or mental abnormality is entitled to maintenance, that the mother as natural guardian is competent to maintain the application, and that the husband's repetitive, unverified applications constituted an abuse of the judicial process. Aggrieved

thereby, the petitioner has knocked at the doors of this Court under its revisional jurisdiction for setting aside of the said orders.

7. Assailing these orders, Mr. Partha Sarathi Das, the learned counsel appearing for the petitioner-husband, forcefully contended that the impugned orders suffer from patent illegality and jurisdictional perversity. Elaborating on the grounds, it is submitted that once the son attained majority, he became *sui juris*, rendering the mother devoid of *locus standi* to maintain an application under Section 127 Cr.P.C. on his behalf. He further argued that Section 127 contemplates the alteration of an existing allowance, and since the right to maintenance automatically terminated upon majority, a fresh original proceeding was imperative.

8. Placing heavy reliance on the landmark pronouncements of the Hon'ble Apex Court in *Aditi alias Mithi v. Jitesh Sharma, [(2024) 14 SCC 355]* which reinforces and reiterates the mandatory directives regarding the filing of affidavits of assets and liabilities passed in *Rajnesh v. Neha*, *[(2021) 2 SCC 324],* Mr. Das urged that the failure to mandate such disclosure vitiates the entire proceedings and impugned orders.

9. Furthermore, learned counsel contended that the disability certificate indicates that the son can move without an escort and is pursuing technical education (an ITI course), thereby dismantling the premise of total incapacity, rendering him capable of sustaining himself or, in any event, disqualifying him from claiming perpetual maintenance without proper evidentiary scrutiny. He contended that Section 127 of the Code does not contemplate the artificial continuation of maintenance for an

adult who is educationally qualified, rendering the mother's representation and *locus standi* legally incompetent.

10. Finally, Mr. Das argued that since the O.P. No. 2's marriage with the petitioner was held to be void *ab initio* in the original Section 125 Cr.P.C. proceeding initiated in 2005, the entire superstructure built by her on behalf of the major son is tainted with mala fides to extract monetary compensation.

11. Per contra, Mr. Sayantan Hazra, learned counsel for the opposite parties, supporting the impugned orders, submitted that the present revisional application is a dilatory tactic of the petitioner riddled with mala fide designed by a chronic defaulter to evade long-standing statutory duties.

12. He further urged that the legislative intent behind Section 125(1)(c) of the Cr.P.C. clearly protects major children who cannot maintain themselves due to physical or mental abnormalities or injury. The 70% to 75% physical handicap of Opposite Party No. 3 is an established matter of record duly supported by medical certificates, and a mother acting as a natural caretaker can lawfully prosecute a claim for a severely disabled adult.

13. Mr. Hazra further argued that a mother acting as a natural caretaker can lawfully prosecute a maintenance claim for a severely disabled adult child. Furthermore, the counsel highlighted that the husband is a chronic defaulter against whom multiple execution proceedings and arrest warrants remain pending for failing to clear maintenance arrears.

14. He contended that mandate of *Rajnesh v. Neha (supra)* and *Aditi alias Mithi (supra)* would not be applicable in the present case as it governs fresh assessments of quantum in contested matrimonial maintenance trials and cannot be weaponized as a retroactive technical shield to defeat a pre-existing, judicially sealed maintenance entitlement of a severely disabled dependent.

15. Finally, Mr. Hazra submitted that since the monthly quantum of Rs. 3,000/- had already been finalized as maintenance amount in the proceeding under Section 125 Cr.P.C., and the Section 127 Cr.P.C. proceeding is merely a continuation of the said proceeding to protect a disabled adult from destitution, as such forcing a fresh and exhaustive asset disclosure drill is unnecessary, especially when the multiple pending execution cases under Section 128 of the Code (spanning maintenance arrears from 2019 to 2024) wherein warrants have been repeatedly issued against the husband for persistent non-payment of arrears, reflecting an active attempt to evade legal obligations.

16. Upon carefully considering the submissions and examining the records, the primary questions that fall for determination in the instant revision are:

> **Firstly,** Whether the statutory obligation of a father to maintain his child under Section 125(1)(c) of the Code of Criminal Procedure automatically terminates upon the child attaining majority, notwithstanding a proven 70% physical disability and inability to maintain himself?

Secondly, Whether the failure to file an affidavit of assets and liabilities in terms of *Rajnesh v. Neha (supra)* and *Aditi alias Mithi v. Jitesh Sharma (supra)* vitiates an interlocutory order passed on a maintainability threshold regarding a pre-existing maintenance adjudication?

Thirdly, Whether the impugned orders suffer from any illegality, irregularity, or impropriety warranting interference under revisional jurisdiction?

17. Upon a comprehensive evaluation of the case records, statutory provisions, and competing arguments, I find that the petitioner's contentions are devoid of merit.

18. Examining the statutory scope of Section 125(1)(c) and Section 127 CrPC and the position of law in respect of the above questions, it is clear that the statutory scheme of Section 125 of the Code of Criminal Procedure places a solemn social obligation upon a person having sufficient means to maintain his child. While the primary provision applies to minors, the statutory provisos carve out a vital exception, extending protection to a major child (not being a married daughter) who, by reason of any physical or mental abnormality or injury, is unable to maintain himself. To suggest that the obligation to pay maintenance automatically evaporates upon crossing the chronological threshold of majority, and that a severely disabled individual must initiate a *de novo* suit from scratch, is to misread the remedial philosophy of the statutory provision. Section 127 Cr.P.C. explicitly

empowers the Magistrate to alter an allowance upon proof of a change in circumstances. The transition from minority to majority coupled with a continuing 70% to 75% orthopaedic disability constitutes a profound change in legal and physical status, perfectly amenable to alteration and continuation of the order of maintenance under Section 127 Cr.P.C. The foundational records, birth certificates, and medical reports establish beyond cavil that Opposite Party No. 3 suffers from a 70% to 75% locomotor or physical disability. The mere acquisition of an ITI technical qualification or the physical ability to walk independently, as argued by the petitioner, does not equate to employability, financial independence, or the capacity to sustain oneself in a competitive socio-economic environment.

19. Furthermore, the objection of the petitioner regarding the mother's (O.P. No. 2) *locus standi* is equally baseless and untenable. A person grappling with a 70% to 75% orthopaedic disability cannot be cast out of the portals of justice on procedural pedantry. A parent or close relative acting as a next friend to ventilate the rights of a disabled adult is a recognized facet of access to justice. Vocational training in a specialized institute does not magically translate into gainful employment or self-sufficiency in the open job market for someone suffering from severe orthopaedic impairment.

20. Addressing the petitioner's reliance upon the dicta of the Hon'ble Supreme Court in *Rajnesh v. Neha* (2021), and *Aditi alias Miti v. Jiti Sharma* (2023), I find it to be fundamentally misplaced. The binding guidelines concerning asset disclosure affidavits are designed to

unearth hidden incomes during adversarial maintenance disputes and streamline the assessment of financial capacities when determining the quantum of maintenance in contested original trials. In the present case, however, the quantum was statically pegged at Rs. 3,000 per month as far back as 2012 and affirmed up to this Court vide the dismissal of CRR No. 77 of 2014. The Section 127 Cr.P.C. proceeding did not seek an exorbitant upward escalation of quantum based on a sudden leap in the husband's income; rather, it was a protective shield to prevent a destitute disabled adult from falling into total vagrancy. The said proceeding was never intended to be deployed as a technical procedural tripwire to strike down threshold maintainability orders concerning a pre-existing, long-affirmed maintenance decree where the physical disability of the child is already a matter of established judicial record. Insisting on a mechanical asset disclosure drill in a static continuation proceeding under Section 127 Cr.P.C., particularly when the record is blighted by persistent execution defaults and warrants of arrest against the husband, would be an exercise in absurdity.

21. The record reflects an egregious pattern of obstructive litigation by the husband-petitioner. Raising identical objections regarding the son's majority and the mother's *locus standi* that were already conclusively repelled by the court on March 31, 2022 through a fresh, unverified, and unsupported petition on October 28, 2022, is a textbook instance of abuse of the judicial process. The Trial Court acted with utmost propriety in penalizing such dilatory tactics of the petitioner with nominal costs of Rs. 500/-.

22. Addressing the duration of such obligations, it is clarified that a maintenance order under Section 125(1)(c) of the Cr.P.C. does not bind a father to an unalterable life sentence forever under all conceivable future conditions. The obligation is dynamically tied to the continuation of the incapacity. While the father is legally bound to maintain his severely disabled major son for as long as the disability persists and the son remains unable to maintain himself, Section 127 of the Code provides an open gateway for modification or cancellation if and when a genuine, material change in circumstances occurs. However, such alteration requires concrete, substantive proof of actual financial self-sufficiency and gainful employment in the open market, rather than speculative assumptions based on technical milestones or vocational training. Upon careful perusal of the impugned orders, this Court finds no patent illegality, perversity, or jurisdictional error committed by the Trial Court in repelling the husband's maintainability objections.

23. In light of the aforesaid discussions, I find that the impugned orders dated March 31, 2022, and January 10, 2023, suffer from no illegality, material irregularity, or legal impropriety. The learned Trial Court has correctly interpreted the statutory safeguards protecting a physically handicapped adult dependent.

24. Accordingly, C.R.R. No. 534 of 2023 stands dismissed.

25. The impugned orders dated March 31, 2022, and January 10, 2023, passed by the Learned Judicial Magistrate, 3rd Court, Ranaghat, Nadia, in Misc. Case No. 388 of 2018 are hereby affirmed.

26. Interim orders, if any, stand vacated.

27. The Learned Trial Court is directed to expedite the pending execution proceedings and ensure strict compliance with the payment of arrears and costs, proceeding forthwith with the recording of evidence in the aforesaid Misc. Case proceeding without granting any unwarranted adjournments to the petitioner-husband.

28. Let a copy of this judgment be transmitted down to the Learned Trial Court forthwith along with the Trial Court Records.

29. There shall be no order as to costs.

30. Case diary, be returned to the Learned Counsel for the State.

31. Urgent photostat certified copy of this judgment, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Uday Kumar, J.)