IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
APPELLATE SIDE

PRESENT:
THE HON'BLE JUSTICE UDAY KUMAR

CRR 1349 OF 2022

JYOTSNARA BIBI
-VS-
MD AZAM ALI SARKAR AND ANR.

For the Petitioner	: Mr. Rwitendra Banerjee, Ld. Adv.
For the State	: Mr. Kaushik Choudhury, Ld. Adv. Mr. Dwaipayan Panda, Ld. Adv.
Reserved on	: 14.08.2026
Pronounced on	: 18.08.2026

UDAY KUMAR, J.: –

I. INTRODUCTION

1. The present criminal revision petition under Section 482 of the Code of Criminal Procedure, 1973 (Cr.P.C.), brings to the fore a recurring judicial dispute; the delicate balance between summary welfare jurisprudence designed to protect destitute spouses and the rigorous standards of proof demanded in regular civil or criminal trials.

2. The Petitioner-wife challenges the legal propriety of the judgment and order dated February 25, 2022, passed by the Learned Additional

Sessions Judge, Special Court, Dakshin Dinajpur, Balurghat, in Criminal Revision No. 17 of 2020. By the said impugned order, the Revisional Court upturned a well-considered order dated November 18, 2020 passed by the Learned Judicial Magistrate, Balurghat, in M.R. Case No. 123 of 2015, granting monthly maintenance of Rs. 6,000/- along with litigation costs under Section 125 Cr.P.C., to the petitioner-wife, erroneously converting a summary statutory remedy into a protracted civil title inquiry regarding the validity of a marriage. This Court is called upon to examine whether such hyper-technical intervention defeats the core legislative intent of anti-vagrancy provisions enshrined in criminal jurisprudence.

II. FOUNDATIONAL FACTS & PROCEDURAL HISTORY

3. The factual matrix unspools from an application instituted by the Petitioner under Section 125 Cr.P.C., registered as M.R. Case No. 123 of 2015 before the Learned Chief Judicial Magistrate, Balurghat, and subsequently transferred to the Learned Judicial Magistrate, 1st Court, Balurghat, wherein the petitioner asserted that her marriage to Opposite Party No. 1 was solemnized on May 28, 2014, in accordance with Muslim Shariyat Law. Following the nuptials, she resided at her matrimonial home as a dutiful wife, only to be subjected to relentless physical and mental cruelty by the Opposite Party, his stepchildren, and relatives, culminating in her being driven out on September 24, 2014 empty-handed.

4. Consequently, she was compelled to seek refuge at her parental home, and the Petitioner initiated parallel proceedings, notably registering an F.I.R. under Section 498A of the I.P.C. upon which Balurghat P.S. Case No. 773 of 2014 dated October 15, 2014 was started and the same was culminated in Charge Sheet No. 864 dated December 31, 2014. Concurrently, facing complete destitution and unemployment, she sought monthly maintenance of Rs. 15,000/-, noting that the Opposite Party No. 1 is gainfully employed as a primary school teacher.

5. The Opposite Party No. 1-husband contested the maintenance claim by filing a written objection, taking preliminary pleas of maintainability, lack of locus standi, and absence of cause of action. He categorically denied the existence of any marital tie, alleging prior marriages of the Petitioner (specifically naming a prior marriage with one Dashimuddin Molla and a subsequent union with Nazimuddin Mahalat, from which three children were born), and asserting that no valid marriage ever took place between them. The husband further characterized the claim as a motivated attempt to extract financial gain.

6. During the interlocutory phase, the Ld. Trial Magistrate rejected interim maintenance on October 4, 2016, which was affirmed in Criminal Revision No. 1 of 2017 on June 23, 2017. However, upon a full-fledged trial, the Learned Judicial Magistrate, 1st Court, Balurghat, evaluated the oral testimonies (P.W. 1 to P.W. 3 and O.P.W.1 and O.P.W.2) and exhibited documents, including the Section 498A police charge sheet and official statutory identity records ([Aadhaar Redacted] and voter identity card reflecting the Opposite Party as her husband). Noting

further that the husband had never instituted any civil suit for a negative declaration regarding the marriage, the Trial Court allowed the petition on November 18, 2020, awarding the petitioner monthly maintenance of Rs. 6,000/- along with Rs. 2,000/- as litigation costs.

7. Dissatisfied, the husband preferred Criminal Revision No. 17 of 2020. By the impugned judgment dated February 25, 2022, the Learned Additional Sessions Judge, Special Court, Dakshin Dinajpur, Balurghat, reversed the Trial Court's findings. The Revisional Court held that the Petitioner failed to prove the formal dissolution of her prior marriages via *talak* and failed to establish ceremonial *Ijab-o-Qabool* or produce the officiating Kazi and *Nikahnama*, thereby dismissing her claim for maintenance entirely.

III. SUBMISSIONS OF THE PARTIES & THEIR PRAYERS

8. Mr. Rwitendra Banerjee, appointed by High Court Legal Services Committee, to represent the Ld. Counsel for the petitioner, strenuously submitted that the 1st Revisional Court committed a grave jurisdictional error by acting as a civil court, conducting a full-scale trial into the technical validity of the marriage, and traveling far beyond the summary scope of Section 125 Cr.P.C.

9. He further submitted that the 1st Revisional Court has completely ignored *prima facie* statutory documents (such as police records, charge sheets, and official identity cards) and placed an unconscionably high and impermissible burden of proof on a destitute woman seeking social justice. He emphasized that statutory public records, police charge

sheets, and official identity documents established a robust *prima facie* case of marriage, which the husband failed to challenge through competent civil proceedings despite being a well-educated school teacher. It is further highlighted that the husband, a primary school teacher earning a substantial income, admitted in cross-examination that he never filed any civil suit for a negative declaration regarding the marriage and had even filled out a form for marriage.

10. Therefore, Mr. Banerjee prayed for the setting aside of the impugned Revisional order dated February 25, 2022, the restoration of the Trial Court's maintenance order of Rs. 6,000/- per month, an enhancement or award of maintenance pendente lite of Rs. 15,000/- per month as originally prayed, and all consequential relief necessary to prevent irreparable injury and destitution.

11. Mr. Kaushik Chaudhury, the Learned Counsel for the Opposite Party defended and supported the impugned order, contending that the Petitioner failed to tender legally admissible proof regarding the dissolution of her prior marriages (with Dachimuddin Molla and Nazimuddin Mahalat) through formal *talak* and failed to establish valid Islamic marriage essentials (*Ijab-o-Qabool*), rendering her claim legally untenable or produce the Kazi and *Nikahnama*, thus justifying the dismissal of her maintenance plea in light of the specific denials raised in the written objection to the application for maintenance.

12. Therefore, Mr. Chaudhury prayed for the dismissal of the instant criminal revision petition and the upholding of the order of the 1st Revisional Court, absolving him of any maintenance liability.

IV. QUESTIONS FOR DETERMINATION

13. Based on the pleadings, records, and rival submissions, the following core questions emerge for determination:

i. Whether the 1st Revisional Court exceeded its summary jurisdiction under Section 125 Cr.P.C. by demanding rigorous formal civil proof of marriage and strict contractual mechanics?

ii. Whether the evidentiary weight assigned to public records, official identity documents, and cohabitation was erroneously discarded by the 1st Revisional Court?

iii. Whether the Petitioner is entitled to maintenance under Section 125 Cr.P.C., warranting the intervention of this Court under Section 482 Cr.P.C.?

V. DISCUSSION ON FACTS, LAW, AND CASES

14. To resolve these questions, this Court must evaluate the legal nature of proceedings under Section 125 Cr.P.C. It is an axiomatic principle of criminal jurisprudence that Section 125 is an ameliorative measure of social justice. Its primary objective is to prevent vagrancy and destitution by compelling those who possess the financial capacity and legal or moral obligation to maintain their dependents. The law is equally well-settled that such proceedings are summary in nature and do not contemplate a protracted, formal trial regarding the intricate validity of a marriage akin to a civil title suit.

15. The judicial approach to proof of marriage in summary maintenance proceedings has been authoritatively delineated by the Hon'ble Supreme Court across a catena of landmark decisions. In the seminal pronouncement of *Dwarika Prasad Satpathy v. Bidyut Prava Dixit*, (1999) 7 SCC 675, the Apex Court explicitly ruled that the standard of proof required in a proceeding under Section 125 Cr.P.C. is not as rigorous, exacting, or formalistic as that required in a criminal trial for bigamy or a full-dress civil suit for declaration. The criminal court entertaining a maintenance claim is only required to satisfy itself that a *prima facie* case of marriage exists based on the cumulative material, oral testimonies, and documentary evidence brought on record by the claimant.

16. Expanding further upon this protective philosophy, the Supreme Court in *Badshah v. Urmila Badshah Godse (*2014) 1 SCC 188, emphasized that a purposive, expansive, and humanitarian interpretation must invariably be accorded to social welfare legislation. The Court observed that where parties have cohabited or where public documents, societal conduct, and official records uniformly point towards a subsisting marital status, a robust presumption operates in favor of the claimant. In such circumstances, a spouse cannot be permitted to evade statutory maintenance liabilities through technical, hyper-legalistic denials or by putting the claimant through an impossible evidentiary gauntlet.

17. This principle finds further reinforcement in *Rajathi v. C. Ganesan (*1999) 6 SCC 326, wherein it was authoritatively established that a

mere bald denial of marriage by the husband in a written statement is entirely insufficient to defeat a genuine claim for maintenance. Once foundational cohabitation, circumstantial evidence, or official documentation is presented by the wife, the evidentiary burden shifts, and the summary nature of the statutory remedy must be meticulously preserved by the courts, preventing the proceeding from being derailed into a protracted title dispute.

18. Applying these settled legal touchstones to the facts on record, this Court finds that the 1st Revisional Court fundamentally misdirected itself. The 1st Revisional Court faulted the Petitioner for failing to prove the formal dissolution of prior marriages via *talak* and failing to produce the Kazi, *Nikahnama*, or independent witness testimony for *Ijab-o-Qabool*. In doing so, the 1st Revisional Court subjected a summary maintenance application to the rigorous evidentiary standards of a civil matrimonial suit, thereby committing an egregious error of law and exceeding its revisional jurisdiction.

19. Conversely, the Trial Court meticulously evaluated the evidence, placing reliance on cogent public records, specifically the criminal charge sheet under Section 498A I.P.C. (Balurghat P.S. Case No. 773 of 2014) and official identity documents ([Aadhaar Redacted] and voter ID), wherein the Opposite Party No. 1 was explicitly recorded as her husband. Furthermore, during cross-examination, the husband admitted that he never instituted any civil declaration suit to negate the marital status, and that he had filled out a form for marriage registration with the

Petitioner. These factors established a formidable *prima facie* case of marriage and cohabitation.

20. By ignoring these public records and demanding absolute technical perfection in proving Islamic contract mechanics, the 1st Revisional Court placed an unconscionable burden on a marginalized, unemployed woman, directly subverting the legislative intent of Section 125 Cr.P.C. The Revisional impugned order thus suffers from patent perversity and jurisdictional overreach, necessitating corrective intervention under Section 482 Cr.P.C.

VI. CONCLUSION

21. In light of the aforesaid factual analysis, legal principles, and judicial precedents, all questions formulated for determination are answered in the affirmative in favour of the Petitioner-wife. The 1st Revisional Court has acted illegally and with material irregularity in setting aside the well-reasoned order of the Trial Magistrate. The Petitioner has successfully demonstrated her entitlement to maintenance as a destitute wife.

22. Accordingly, the following orders are passed:

i. The impugned judgment and order dated February 25, 2022, passed by the Learned Additional Sessions Judge, Special Court, Dakshin Dinajpur, Balurghat, in Criminal Revision No. 17 of 2020 is hereby set aside.

ii. The well-reasoned final order dated November 18, 2020, passed in M.R. Case No. 123 of 2015 by the Learned Judicial Magistrate, 1st Court, Balurghat, awarding maintenance of Rs. 6,000/- per month along with litigation costs of Rs. 2,000/- to the Petitioner-wife is hereby restored and affirmed.

iii. The Opposite Party No. 1-husband is directed to clear all arrears of maintenance calculated from the date of filing of the original case, in accordance with the directions of the Trial Court, within 60 days from the date of this order. Regular monthly maintenance shall continue to be paid by the 7th of each succeeding English calendar month.

23. The instant criminal revision petition (C.R.R. No. 1349 of 2022) is accordingly allowed.

24. Interim order, if any, stands disposed of.

25. All connected applications stand disposed of.

26. There shall be no order as to costs.

27. Case diary, if any, be returned forthwith.

28. Let a copy of this judgment along with the trial court records be transmitted to the Learned Trial Court forthwith for information and necessary compliance.

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

(Uday Kumar, J.)