

18.08.2021
Item no.29
Ct. No.34
CHC

C.R.R. No.542 of 2018

(Physical Hearing)

In Re: An application under Section 482 of the Code of Criminal Procedure, 1973.

AND

In the matter of:-

Sangita Singha (Dutta)
... petitioner

Mr. Ayan Basu,
Mr. Prabir Kr. Das,
Mr. Sourav Bera,
Mr. Sumit Routh
...for the petitioner

Mr. Sandipan Ganguly, Sr. Advocate
Mr. Suman Sankar Chatterjee,
Mr. Uday Sankar Chatterjee,
Mr. Pranay Basak
...for the opposite party

The revisional application has been preferred against the order dated 10.01.2018, passed by the learned Additional Chief Judicial Magistrate, Katwa in connection with Misc.Case No.170 of 2012 (T.R. No.820/C.I.S./No.200/16).

Learned advocate for the petitioner submits that the petitioner is aggrieved by the quantum which was awarded by the learned Additional Chief Judicial Magistrate, Katwa.

According to the learned advocate for the petitioner, although the salary of the opposite party/husband (as was evident from the gross salary received in the month of November, 2017) was

Rs.56,748/-. Learned Magistrate erroneously arrived at a finding of quantum of award as maintenance, which was not commensurate with the salary of the opposite party who happens to be a government employee.

Mr. Sandipan Ganguly, learned Senior Advocate appearing on behalf of the opposite party/husband supports the order passed by the learned Additional Chief Judicial Magistrate, Katwa and submits that there are precedents which reflect that 1/5th of the salary is to be awarded as maintenance.

Having regard to the submissions made by both the parties as also taking into consideration the over all circumstances of the case, I am of the view that there is no straight jacket formula for fixing a quantum and each case has to be decided on its own merits.

Considering that the order was passed on January 2018 and is being revised in the month of August 2021, I am of the view that there has been escalation in the prices of the essentials to the extent of Rs.15% to 20% thereby calling for a modification of the amount so awarded.

Accordingly, I modify the quantum to a sum of Rs.13,000/- to be paid on and from the month of January 2021 till the same is considered by the learned Magistrate subsequently in a suitable application under the provisions of law to be that under changed circumstances.

The opposite party/husband is directed to pay Rs.13,000/- as current maintenance and will disburse an additional amount of Rs.1,000/- per month on account of arrears.

With the aforesaid observations, the criminal revision being C.R.R.542 of 2018 is partly allowed.

Pending application, if any, is consequently disposed of.

Interim order, if any, is hereby vacated.

All parties shall act in terms of copy of this order downloaded from the official website of this Court.

(Tirthankar Ghosh, J.)