

14.07.2021

Item No.26
Ct.No.34
dc.

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

C.R.R. 674 of 2012
(Via Video Conference)

Maheswar Chakraborty
versus
Mitali Chakraborty (Ghosh)

In Re: An Application under Section 401 read with Section 482 of the Code of Criminal Procedure, 1973.

The present revisional application has been preferred against the order dated 18.11.2011 passed by the learned Judicial Magistrate, 2nd Court, Barasat in connection with case no. M. 31 of 2010 under Section 125 of the Code of Criminal Procedure.

The grievance of the petitioner is that the order of maintenance was passed *ex parte* and as such, the same should be set aside.

Having regard to the provisions of Chapter 9 of the Code of Criminal Procedure, I am of the view that if an application under Section 126 of the Code of Criminal Procedure with proper reasons are brought before the learned Magistrate by the husband/petitioner, the learned Magistrate will consider the same in its true and proper spirit. In view of such direction, no comment is made on the merits of the case regarding the *ex parte* order being passed as it was the discretion of the learned Magistrate to pass such order after being satisfied regarding the fact that even after due and

proper service of notice, the husband/petitioner failed to appear before the court.

So far as the quantum of maintenance is concerned, the same is a meagre amount for sustaining of an individual as per present cost of living. As such, maintenance of Rs.2,000/- per month to the wife and Rs.1,000/- per month to the minor child is not interfered with by this Court.

The wife/opposite party will be at liberty to recover the arrears by taking out appropriate application before the jurisdictional court.

With the aforesaid observations, CRR 674 of 2012 is disposed of.

Interim order, if any, is hereby vacated.

All pending applications, if any, are consequently disposed of.

All parties shall act on the server copy of this order duly downloaded from the official *website* of this Court.

(Tirthankar Ghosh, J.)