

Form No. J(2)

IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction
Appellate Side

Present:

The Hon'ble Justice Jay Sengupta

CRR 698 of 2021

Rajat Ghosh

Vs.

Ratna Ghosh

For the Petitioner

: Mr. Suman De

: Mr. D. Ghorai

Heard on: 10th March, 2021

Judgment on : 10th March, 2021

The Court:

This is an application challenging a judgment and order dated 11.12.2019 passed by the learned Additional Chief Judicial Magistrate at Chandannagar, Hooghly allowing a petition filed under Section 127 of the Code and enhancing the monthly maintenance allowance to Rs. 10,000/- per month. There is an application for condonation of delay filed along with this application.

Considering the explanation provided in the application under Section 5 of the Limitation Act, I am inclined to condone the delay in preferring the revision.

Accordingly, CRAN 1 of 2021 is disposed of.

Learned counsel appearing on behalf of the petitioner submits as follows. The opposite party filed an application under Section 125 of the Code praying for maintenance allowance for herself and her minor son in the year 1993. By an order dated 03.08.2009, the learned Additional Sessions Judge, 3rd Court, Hooghly affirmed the judgment and order dated 05.09.2007 passed by the learned Additional Chief Judicial Magistrate, Chandannagar, Hooghly in Misc. Case No. 49 of 2006, whereby maintenance allowance payable to the opposite party/wife and her minor child was enhanced to Rs.2,000/- each per month. The husband challenged this by filing a revisional application before this Court. On 25.11.2014, this Court was pleased to dismiss the revisional application. Subsequently, the opposite party/wife filed another application under Section 127 of the Code being Misc. Case No. 95 of 2015. The prayer of the wife was allowed and a sum of Rs.10,000/- was directed to be paid as the enhanced sum of maintenance allowance under Section 127 of the Code per month for the wife. No sum was granted for the son

because he had become an adult by them. In the proceeding under Section 127 of the Code, a suggestion was given to the wife that her son was working and was earning a handsome salary. She denied the suggestion. However, in a related proceeding, the wife admitted her son was earning a good salary. On the other hand, the petitioner is the employee of the National Insurance Company Limited at present. But, he is to retire soon. The petitioner also has other obligations to fulfil. A sum of Rs. 10,000/- per month is too high for the petitioner to pay as maintenance allowance for the wife.

I have heard the submissions of the learned counsel appearing on behalf of the petitioner and have perused the revision petition.

It appears that the petitioner was getting a salary of Rs. 79,000/- and odd and a net salary of 43,000/- and odd per month at the time of consideration of the application under Section 127 of the Code. Such sums might have increased by now.

It is a bounden duty of a husband to maintain his wife and quite at the same standard that she would have enjoyed had she been able to stay at the husband's household.

The petitioner cannot shy away from his obligation to maintain his wife by giving suggestions that their son, who has now become a major, might be earning a good salary.

There is no doubt that the petitioner is liable to maintain his wife.

Considering the income of the petitioner, as discussed in the impugned order, the apparent standard of living of the husband and wife and the rising price indices, a sum of Rs. 10,000/- as monthly maintenance allowance cannot be considered to be an excessive amount to be paid as monthly maintenance allowance.

I do not find any illegality in the reasoned order passed by the learned Magistrate.

With these observations, the revisional application is dismissed.

However, there shall be no order as to costs.

Urgent photostat certified copies of this order may be delivered to the learned Advocates for the parties, if applied for, upon compliance of all formalities.

(Jay Sengupta,J.)