

11.08.2021
Ct No. 35
D/L 11
ab

C.R.R. 913 of 2021
(Via Video Conference)

Re: An application under Article 227 of the Constitution of India.

In re : Nandini Saha (Chaterjee),

... Petitioner

Mr. Tapas Kumar Dey,
Mr. Nirupam Sarkar,
Mr. Ashish Kumar Dutta,

... for the petitioner

Mr. Goutam Wilson,
Ms. Anita Deb Jana,

... for the opposite party No. 2

In this revisional application, the petitioner has challenged an order dated March 12, 2021, passed in Criminal Appeal No. 4 of 2021, whereby the learned Judge in the Court below by an interim order reduced the maintenance amount awarded by the learned Magistrate to the petitioner and her minor son from Rs. 7,000/- per month to Rs. 2,000/- per month.

It was the finding of the learned Magistrate while granting maintenance that the husband/opposite party No. 2, being an able bodied person, was under obligation to maintain his wife and his minor son.

The amount awarded by the learned Magistrate towards the maintenance of the petitioner and her minor son does not appear to be excessive since the maintenance amount of Rs. 4,000/- per

month for the petitioner and Rs. 3,000/- per months for the minor son, is minimum to maintain the petitioner herself and her minor son.

In appeal, the learned Judge in the Court below recorded the submissions advanced on behalf of the opposite party No. 2 that he is a day labourer and he had been affected with Covid-19 virus and he lost his job.

The learned Judge in the Court below while reducing the maintenance amount did not give his own finding with regard to the income of the husband/opposite party No. 2.

A maintenance of Rs. 4,000/- per month for a destitute lady and Rs. 3,000/- per month for her minor son is not excessive. A total maintenance of Rs. 2,000/- per month for the petitioner and her minor son is too meagre for their sustenance.

The learned Judge in the Court below, while passing the impugned order, was not justified to reduce the maintenance amount, as awarded by the learned Magistrate without assigning any reason.

The impugned order dated March 12, 2021 is, therefore, set aside. The learned Judge in the Court below will hear out the Criminal Appeal No. 4 of 2021 within a period of two months from date and decide the appeal finally on merit without being influenced by this order.

With the observations as above, the revisional application being **C.R.R. 913 of 2021** is disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance with the necessary formalities.

(Kausik Chanda, J.)