

10.09.2021  
item No.72  
n.b.  
ct. no. 34

**CRR 2125 of 2012**

**(via video conference)**

**Amina Bibi.**

**-Vs-**

**Safiar Rahaman & Anr**

This revisional application was preferred against the judgment and order dated 19.4.2012 arising out of Criminal Motion case no.138 of 2011 where in the revisional court was pleased to affirm the judgment and order dated 25.5.2011 passed by the learned Judicial Magistrate, 1<sup>st</sup> Court, Barasat, in M. case no.247 of 2004 under section 125 of the Code of Criminal Procedure.

On perusal of the record, I find that the Learned Magistrate was pleased to award only a sum of Rs.500/- per month to the minor son of the petitioner but did not award any maintenance to the wife. The reason that was assigned by the learned Magistrate are not in consonance with the settled principles of law regarding sustenance as provided in chapter IX of the Code of Criminal Procedure. The order so affirmed by the learned revisional court do not seem to consider the purpose for which the provisions have been incorporated by the legislature in the Code of Criminal Procedure. Having regard to the same the order passed by the learned Additional Sessions Judge, First Tract Court No.1, Barasat on 19.4.2012 in Criminal Motion 138 of 2011 as well as the order dated 23.05.2011 passed in M. Case no.247 of 2004 by the Learned J.M. 1<sup>st</sup> Court Barasat is set aside. The learned Magistrate would freshly consider regarding the issue of maintenance to the present petitioner.

Accordingly, CRR 2125 of 2012 is allowed.

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

Department is directed to communicate this order to the jurisdictional Magistrate within seven days from date for taking further steps in connection with the proceedings.

Learned Magistrate is directed to act on the server copy of this order.

Interim order, if any, is hereby vacated.

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

**( Tirthankar Ghosh, J.)**