

Sr.22 & 23
01-09-2021
Subha.
Court no. 34

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
APPELLATE SIDE
(Via Video Conference)**

CRR 2563 of 2018

Anita Roy
-vs-
Suhrid Roy

with

CRR 2786 of 2018

Suhrid Roy
-vs-
Anita Roy

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

Mr. Uday Sankar Chattopadhyay
Mr. Santanu Maji
Mr. Pronay Basak
Mr. Subhayu Das
.....for the petitioner in CRR 2563 of 2018
& opposite party in CRR 2786 of 2018.

Mr. Saryati Datta
Ms. Rajnandini Das
..... for the petitioner in CRR 2786 of 2018
& opposite party in CRR 2363 of 2018.

Supplementary affidavit filed on behalf of the petitioner be kept with the record.

In CRR 2563 of 2018, petitioner/wife, Anita Roy has challenged the order passed by the learned Sessions Judge, Burdwan in Criminal Motion No. 65 of 2018 along with

Criminal Motion No. 90 of 2018 wherein the maintenance amount awarded by the learned Judicial Magistrate, 4th Court, Burdwan in his order dated April 20, 2018 was reduced from Rs.5000/-per month to Rs.4000/- per month .

In CRR 2786 of 2018, husband/petitioner, Suhrid Roy has challenged the order dated 31st July, 2018 passed by the learned Sessions Judge, Burdwan in Criminal Motion No. 65 of 2018 along with Criminal Motion No. 90 of 2018 wherein the maintenance amount was reduced to a sum of Rs.4000/- per month in respect of the order passed by the learned Judicial Magistrate, 4th court, Burdwan in Misc. Case No. 79 of 1999 under Section 125 of the Code of Criminal Procedure.

The genesis of the case relates to the order passed by the learned Judicial Magistrate, 4th Court, Burdwan. I find from the order dated 18th April, 2018 passed by the learned Magistrate that on an appreciation of the evidence, the learned Magistrate was pleased to allow maintenance of Rs.5000/- per month to be paid by the opposite party/husband from the date of the order within the 10th day of each succeeding month.

Mr. Chattopadhyay, learned advocate appearing for the wife is aggrieved in respect of the part of the order which relates to the maintenance amount “*being paid from the date of the order*”. According to him, the same should be from the date of the application.

I have perused the record and I find that from time to time, the learned Magistrate has fixed interim maintenance

which was supposed to be paid by the husband. The said amount was also enhanced during the pendency of the proceedings. The award was by way of a final order on an appreciation of the evidence which surfaced in course of trial.

Having regard to the fact that the wife had been throughout receiving interim maintenance although the quantum may have been different, I am of the view that the direction of the learned Magistrate to the extent that the amount of Rs.5000/- to be paid from the date of the order is in consonance with the special reasons assigned under the provisions of Chapter IX of the Code of Criminal Procedure.

So far as the quantum of the amount of Rs.5000/- is concerned, Mr. Saryati Datta, learned advocate for the husband has supported the judgement of the learned Sessions court wherein the learned Sessions court was pleased to reduce the amount from Rs.5000/- to Rs.4000/-.

I find no justification in reducing the amount considering the present day cost of living and minimum amount required for an individual to survive.

Accordingly, the modification of monthly maintenance amount passed by the learned Sessions Judge by reducing the quantum by its judgement dated 31st July, 2018 is, hereby, set aside.

Needless to state that both the proceedings under the Code of Criminal Procedure as well as the provisions of Domestic Violence Act is maintainable.

However, the husband would pay the amount decided in one of the cases which is the higher sum. If there are any arrears due, the learned Magistrate would invoke the appropriate provisions of law if an application to that effect is filed by the wife within a reasonable period of time.

With the aforesaid observations, CRR 2563 of 2018 and CRR 2786 of 2018 are disposed of.

All pending applications, if any in connection with both the revisional applications, are consequently disposed of.

Interim order, if any, is hereby vacated.

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

(Tirthankar Ghosh, J.)