

29.07.2021
Item no.16
Ct. No.34
CHC

C.R.R. No.3049 of 2011

(Via Video Conference)

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

AND

In the matter of:-

Sumita Singha

... petitioner

The subject-matter of challenge relates to the order dated 30.05.2011, passed by the learned Additional District and Sessions Judge, Fast Track Court-III, Barasat, North 24 Parganas, in Criminal Revision No.168 of 2010, wherein, the learned court was pleased to reverse the order dated 13.07.2010, passed by the learned Chief Judicial Magistrate, Barasat, in Case No. M 120 of 2009.

Record reflects that the learned sessions court while appreciating the revisional application was pleased to hold that two of the sons are employed, as such, the wife and the daughter are having sufficient income and they do not require any maintenance to be awarded. The observations so reached by the learned sessions court is against the settled principle of law and same should have been passed after affording audience to the present petitioner who happens to be the wife.

Needless to state that the learned Magistrate in the order dated 13th July, 2010 was pleased to award maintenance to the

tune of Rs.1000/- to the wife and the two children, aggregating to a sum of Rs.3,000/- per month. The order passed by the learned sessions court seems to be without any application of mind as learned sessions court did not take into consideration the maintenance to be awarded to the daughter also who was at the relevant point of time aged about 14 years.

Having regard to the reasons so emphasized by the learned sessions court while exercising its revisional jurisdiction, I am of the view that the same is not on the basis of settled principle of law and are based on the simple assertion made by the husband. In view of the aforesaid the order dated 30.05.2011, passed by the learned sessions court in Criminal Revision No.168 of 2010 is set aside. Consequently, C.R.R.3049 of 2011 is allowed.

Pending application, if any, is consequently disposed of.

The present petitioner as well as the added opposite party being the daughter will be at liberty to take out an appropriate application before the learned Magistrate for recovery of the arrears.

All parties shall act in terms of copy of this order downloaded from the official website of this Court.

(Tirthankar Ghosh, J.)