

24.09.2021
Ct No. 34
SL. No. 14
Somnath (PA)

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

CRR 3226 of 2012

In the matter of : Anita Daspetitioner.

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

Mr. Abhijit Kumar Adhya
... for the petitioner.

The revisional application was preferred challenging the order dated 02.07.2012 passed by the Learned Additional District and Sessions Judge, 5th Court, Howrah in Criminal Appeal No. 13 of 2010 wherein the Learned Revisional Court was pleased to set aside the order passed by the Learned Judicial Magistrate, 1st Court, Howrah in Miscellaneous Case No. 312 of 2001 under Section 125 of the Code of Criminal Procedure. The learned Magistrate on an appreciation of the evidence was pleased to award maintenance of Rs. 1,200/- per month by a judgment and order date 31.08.2009.

The husband/opposite party being aggrieved preferred the revisional application before the Learned Sessions Judge. The learned Additional District and Sessions Judge, 5th Court, Howrah by its order dated 02.07.2012 was pleased to set aside the order dated 31.08.2009 passed by the Learned Judicial Magistrate, 1st Court, Howrah. The Learned Revisional, Court while arriving at its conclusion, relied upon certain documents holding that the wife was leading an adulterous life. It is very difficult to understand according to the Criminal Rules and Orders Ext.1 is to be marked in respect of a document which is produced in support of the prosecution case.

The Learned Sessions Court while deciding the revisional application should have approached in a cautious manner before arriving at such finding and then set aside the order of maintenance. The record of the revisional application reflects that a Co-ordinate Bench of this Court while admitting the revisional application on 12.09.2012 was pleased to direct the opposite party/husband to pay at the rate of Rs. 1,200/- per month until further orders of the High Court.

Having regard to the cumulative circumstances reflected in the order of the Learned Magistrate, I am of the view that the order of the Learned Sessions Judge is not maintainable in law. Accordingly, the same is set aside.

Consequently, CRR 3226 of 2012 is allowed.

Pending application, if any, is disposed of.

Interim order is made absolute, as such the opposite party/husband will continue the payment of Rs. 1,200/- until a satisfaction is recorded by the learned Magistrate in an application under the relevant provisions of law for altering such amount.

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

(Tirthankar Ghosh, J.)