

Form No. J(1)

IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction
Appellate Side

Present:
The Hon'ble Justice Jay Sengupta

CRR 1515 of 2020
with
CRAN 1 of 2020

Smt. Sumita Paine
Vs.
Sri Biplab Paine & Anr.

For the Petitioner	:	Mr. Moyukh Mukherjee Mr. Sakti Halder
For the Opposite Party No. 1	:	Ms. Dipti Bhattacharyya Mr. Sasanka Kr. Mondal
For the State	:	Mr. Imran Ali Mr. Mirza Firoj Ahmed Begg
Lastly heard on	:	11 th November 2021
Judgment on :	:	11 th November 2021

The Court:

This is an application challenging the paucity of maintenance allowance granted to the petitioner / wife by an order dated 11.09.2019 passed by the learned Judicial Magistrate, 2nd Court, Serampore, Hooghly in Misc. Case No. 400265 of 2017 under Section 127(1) of the Code of Criminal Procedure.

Heard the learned counsels for the petitioner, the opposite party no. 1 and the State at length.

During earlier hearings, attention had not been drawn specifically even by the learned counsel for the opposite party no. 1 / husband to the fact that exactly the same relief had been sought in the earlier revision preferred by the petitioner before this Court being CRR 3238 of 2019 although finally the grievance of the petitioner / wife that full maintenance allowance was not being paid by the husband was primarily addressed by this Court in the said revision.

Subsequently, it was noticed that the same order was challenged and the same relief was sought earlier by the petitioner assailing the paucity of maintenance allowance granted to her. Therefore, on 15.09.2021 this Court directed the matter to appear under the heading "To Be Mentioned".

As is evident from the order dated 18.09.2020 passed by an Hon'ble Co-ordinate Bench of this Court in CRR 3238 of 2019, it was held that if the petitioner did not get full maintenance allowance from the opposite party as per the order of the learned Magistrate, her proper course was to file an application for execution of realization of balance amount. This Court further held that as it did not have the jurisdiction to pass any order to satisfy the grievance of the petitioner, the petitioner would be at liberty to file appropriate execution case before the learned Court below.

If the petitioner was aggrieved with the order dated 18.09.2020 passed by this Court, she ought to have challenged it before the Hon'ble Apex Court.

What transpires from the order dated 18.09.2020 is that either the petitioner, who was appearing in person, could not place her case properly or while making her submissions instead of emphasizing on the paucity of maintenance allowance granted, she vented her main grievance as the non payment of full maintenance allowance by her husband.

Be that as it may, this Court cannot entertain a revisional application in which the same order is being challenged and the same relief is being sought all over again as was done in a previous revision.

Therefore, on such technical ground, I find that this application is not maintainable.

Accordingly, the same is dismissed.

However, there shall be no order as to costs.

In the peculiar circumstance that the petitioner / wife appearing in person might have mistakenly laid emphasis on a different relief in the earlier revision thus inadvertently rendering the present revision nugatory, liberty is granted to the petitioner / wife to pray for enhancement of maintenance allowance before the learned Trial Court in the changed circumstance, if any.

In the event the petitioner makes such prayer before the learned Trial Court, the same may be disposed of as expeditiously as possible and the petitioner may be permitted to place her case in person before the learned Trial Court, if she so wishes.

With these observations, the revisional application and the connected application are disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties, upon completion of requisite formalities.

(JAY SENGUPTA,J.)