

D/L35
22.09.2022
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C.R.R. 75 of 2021

In Re: An application under Section 482 of the Code of Criminal Procedure, 1973;

Bablu Chakraborty
Versus
Barnali Chakraborty nee Roy

Ms. Manaswita Mukherjee.
...for the petitioner.

Ms. Mukherjee, learned advocate appearing on behalf of the petitioner prays for setting aside the order dated 28.01.2020 passed by the learned Judicial Magistrate, 2nd Court, Chandernagore, Hooghly in connection with Misc. Case No.171 of 2017 wherein the learned Magistrate was pleased to award Rs.5,000/- per month as maintenance.

The grievance of the petitioner is that the learned Magistrate did consider the period of earning from April, 2018 to March, 2019 as the petitioner happens to be an employee of Lake Club. There has been reduction of his earning post covid pandemic.

So far as the amount which has been awarded by the learned Magistrate, the same was on the foundation of his range of earning from Rs.16,893/- a month to Rs.20,177/- a month. This variation was taken into consideration by the learned Magistrate and accordingly less than 1/3rd of the same was directed to be paid by way of maintenance.

Having regard to the principles, which has been considered by the learned Magistrate, I am of the opinion that there

is no scope for interference by this Court.

However, Ms. Mukherjee, learned advocate appearing for the petitioner submits that post pandemic the clubs are operating with scarcity of crowds and the basic salary of the petitioner is not enough to pay such amount on each and every month. This particular circumstance so canvassed by the learned advocate was not before the learned Judicial Magistrate when the quantum was decided.

Accordingly, the petitioner would be at liberty to take out an application under Section 127 of the Code of Criminal Procedure before the learned Judicial Magistrate. The learned Judicial Magistrate would consider the circumstance and dispose of such application in accordance with law.

With the aforesaid observations, CRR 75 of 2021 is disposed of.

Pending applications, if any, are consequently disposed of.

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

(Tirthankar Ghosh, J.)