

18.04.2022.

Item No. 61

ap

C.R.R. 122 of 2019

In Re: An application under Section 401 read with Section 482 of the Code of Criminal Procedure, 1973;

And

In the matter of: Sri Amresh Singh Kharwar @ Guddu.

...petitioner

Mr. Ashis Kumar Chowdhury,

Ms. Indrani Patra.

...For the petitioner

Affidavit-of-service filed in Court today be kept with the record.

The petitioner is aggrieved by an order passed by the Appellate Court wherein the learned Appellate Court was pleased to direct the present petitioner being the husband to pay interim maintenance of Rs.10,000/- (Rupees ten thousand only) [Rs.7,000/- for the wife and Rs.3,000/- for the minor child] per month as was earlier directed by the learned Trial Court having regard to the reasons so assigned by the learned Trial Court.

So far as the quantum of maintenance is concerned, I am of the opinion that no interference is called for.

The learned advocate appearing for the petitioner submits that there are materials which was relied upon which would reflect that the opposite party/wife has remarried second time and is insisting upon the Courts for maintenance so far as the present petitioner is concerned.

According to the learned advocate for the petitioner the same is a change of circumstance which do not warrant any maintenance to be paid to the opposite party/wife.

I find from the grievances expressed by the petitioner that although such contention was advanced before the learned Magistrate/Trial Court as well as the Appellate Court, the same was not addressed by both the Courts.

Having regard to the submissions so advanced by the petitioner, I direct that the learned Magistrate, being the Trial Court, would consider such contention after proper proof of documents being placed in course of trial and decide the issue.

No interference is called for so far as the order passed by the Appellate Court is concerned.

With the aforesaid observations, CRR 122 of 2019 is disposed of bearing in mind that the maintenance so awarded was an interim measure during the pendency of the main proceeding.

Pending application, if any, is consequentially disposed of.

Interim order, if any, stands vacated.

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

(Tirthankar Ghosh, J.)

