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June 9,
2022
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C.R.R. No.464 of 2022

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

Debshankar Jha
Versus
The State of West Bengal & Anr.

Mr. Md. Zeeshan Uddin,
Ms. Amrin Khatoon.
...for the petitioner.

Mr. Satyam Mukherjee,
Ms. Sayani Ahmed,
Mr. Soumyadeep Mukherjee.
...for the opposite party no.2.

The petitioner before this Court has challenged the judgment and order dated 29.11.2021 delivered by the learned Sessions Judge, Birbhum, in Criminal Revision No.25 of 2019.

The petitioner, who happens to be the husband, is aggrieved by the interim maintenance awarded to the wife by the learned Sessions Judge, in spite of the same being refused by the learned Magistrate who granted interim maintenance only to the child and refused that of the wife.

Be that as it may, the records reflect that the subject matter of challenge before this Court relates to interim maintenance. The application under Section 125 of the Code of Criminal Procedure was preferred in the year 2018. More than four years have been expired in the meantime and the evidence before the learned trial court is yet to commence. The purpose of interim

maintenance is for sustenance during the pendency of the application for maintenance under Section 125 of the Code of Criminal Procedure and, as such, awarding maintenance by the learned Sessions Judge does not suffer from any illegality.

Mr. Zeeshan Uddin, learned advocate appearing for the petitioner submits that the learned Sessions Court ignored the documents which were placed on record and the petitioner was unrepresented on the date of final hearing took place.

Be that as it may, the conduct of the petitioner as such before the learned revisional court was not proper. There are some materials obviously which requires for consideration for a court of law to arrive at its conclusion both regarding the entitlement of maintenance as well as the quantum of maintenance to be awarded as the materials in the form of evidence are to be brought on record.

In view of the aforesaid, I am of the considered opinion that in case the documents which have been orally submitted before this Court by the learned advocate for the petitioner is brought on record in course of evidence, the learned Magistrate would independently consider the issues of entitlement of maintenance as well as the quantum of maintenance to be awarded at the time of final disposal of the case without being influenced by any observations made by this Court or the Sessions Court.

With the aforesaid observations, CRR 464 of 2022 is disposed of.

Pending application, if any, is consequently disposed of.

Interim order, if any, is hereby vacated.'

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

(Tirthankar Ghosh, J.)