

08-06-2022
Subha
Item no.49
Ct no.34

IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction

CRR 465 of 2022

In the matter of : **Tapas Ghosh & Anr.**petitioners.

In Re : An application under Article 227 of the Constitution of India.

Mr. Biswajit Hazra
Mr. Archisman Sain
.....for the petitioners.

Mr. Soumya Nag
Mr. A. Rakshit
....for the O. P. No. 2.

Ms. Manisha Sharma
..for the State.

The revisional application has been preferred challenging the order passed by the learned Judicial Magistrate, 4th Court, Alipore, South 24 Paraganas wherein the learned appellate court in Criminal Appeal No. 4 of 2019 was pleased affirm the order passed by the learned Judicial Magistrate, 4th Court, Alipore in AC Case No. 118 of 2014.

The learned Magistrate in its judgement and order dated 30.11.2018 was pleased to award a sum of Rs.5000/- per month and Rs.10,000/- per month as maintenance to the wife and the child respectively. Additionally, a sum of Rs.2500/- was awarded towards alternate accommodation and a direction for compensation to the tune of Rs.2,50,000/- was passed.

Such judgement and order was passed on perusal of the

evidence which surfaced in course of trial. The quantum so decided by the learned trial court under no circumstances seems to be excessive. The learned appellate court also assesses the same.

Learned advocate for the petitioners submits that there has been change of circumstances as the foundation of the order was on the basis of the medicine distributorship, which the husband had been carrying on. Subsequently, the said distributorship has been surrendered. The learned advocate was, however, unable to show that such distributorship being surrendered was brought to the notice of the learned trial court in course of evidence. The same is a changed circumstance and is being first time agitated before this court.

Learned advocate appearing for the private opposite party opposes the contentions and substantiates the order passed by the learned trial court.

I have considered the submissions of both the parties and on perusal of the evidence of the case and the conclusion arrived at by the learned trial court and the appellate court, I do not find any illegality in the said orders. However, so far as the change of circumstances are concerned, the petitioners would be at liberty to take out appropriate application under the relevant provisions of law and the trial court would agitate the same in accordance with law.

No interference is called for at this stage. Accordingly, the revisional application being 465 of 2022 is dismissed.

All pending applications, if any, in connection with the revisional application, are consequently disposed of.

Interim order, if any, is hereby vacated.

All concerned parties are to act in terms of a copy of this order duly downloaded from the official website of this court.

[Tirthankar Ghosh, J]