

26.04.2022

Item No.22
Ct.No.34
dc.

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION**

C.R.R. 588 of 2022

**Monindra Nath Mondal
versus
Tripti Chanda (Mondal)**

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

Mr. Pinaki Ranjan Mitra,
Mr. S. Mukhopadhyay ... For the Petitioner.

Ms. Santi Das,
Ms. Sayanti Sengupta ... For the Opposite Party.

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

The present revisional application has been preferred challenging the order dated 25.11.2021 passed in Misc. Case No. 62 of 2018 which was heard along with Misc. Case No. 1907 of 2014 by the learned Judicial Magistrate, 2nd Court, Barasat, North 24-Parganas.

Learned advocate appearing for the husband/petitioner is aggrieved by the manner in which the award of maintenance has been enhanced. Learned advocate has drawn the attention of the Court to a document and on the foundation of the same, the learned advocate submits that the petitioner has taken early retirement from the service of ONGC.

Be that as it may, it has been categorically observed by the learned Magistrate that such document is not appearing in evidence before him. Thus, the learned Magistrate had no

document before him to decide the correctness of the contention advanced by the husband/petitioner. As such, the learned Magistrate proceeded on his own finding on the basis of the materials available on record.

Having regard to such fact, I am of the opinion that the petitioner should be granted an opportunity to adduce evidence in support of the document to prove his early retirement before the learned Magistrate. So far as the order of dismissal in Misc. Case No. 62 of 2018 is concerned, the same is set aside.

The petitioner would be afforded opportunity for adducing evidence as directed above.

During the pendency of the fresh hearing of Misc. Case No. 62 of 2018, the maintenance so awarded by the learned Judicial Magistrate would continue.

The learned Magistrate would independently arrive at his own finding regarding the issue of enhancement or reduction of maintenance amount without being influenced by any observations made by this Court.

With the aforesaid observations, the revisional application being CRR 588 of 2022 is disposed of.

Interim order, if any, is hereby vacated.

All pending connected 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.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Tirthankar Ghosh, J.)