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June 15,
2022
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C.R.R. No.669 of 2022

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

Sri Tarak Bhowmik
Versus
Smt. Tapasi Bhowmik nee Brahma & Anr.

Mr. Apruba Krishna Das,
Mr. Bapin Baidya.
...for the petitioner.

Mr. Imran Ali,
Ms. Debjani Sahu.
...for the State.

Mr. Sudip Kumar,
Mr. Sayan Dev Kumar.
...for the opposite party no.1.

Affidavit of service so filed be kept with the record.

The petitioner is aggrieved by the order dated 02.02.2022 wherein the learned Magistrate was pleased to award a sum of Rs.8,000/- per month to the wife and Rs. 6,000/- per month to the child aggregating to a sum of Rs.14,000/- per month. Such quantum was arrived at by the learned Magistrate on the basis of the foundation that the husband was working as Assistant Treasury Officer and was earning about Rs.50,000/- per month.

It has been disputed by the learned advocate appearing for the petitioner both regarding the foundation of the quantum of earning of the petitioner as well as the quantum of maintenance

awarded to the wife and the child.

The present order has been passed as an interim measure during the pendency of the main proceedings under Section 125 of the Code of Criminal Procedure wherein the parties would be adducing their own evidence either to establish the case or to rebut the case of the other side.

In view of the submissions advanced by the learned advocate appearing for the petitioner regarding the maintainability of the proceedings under Section 125 of the Code of Criminal Procedure in respect of issues regarding desertion and allied issues as also quantum earned by the present petitioner, I am of the opinion that the present petitioner being the husband would be at liberty to place his case by way of oral and documentary evidence in course of evidence before the learned trial court. Needless to state that this Court has not expressed any opinion regarding the quantum which has been awarded by the learned Magistrate. On conclusion of trial, learned Magistrate would independently arrive at its findings without being influenced by any observation made by this Court.

With the aforesaid observations, CRR 669 of 2022 is disposed of.

Pending application, if any, is consequently disposed of.

As prayed for by the learned advocates for the parties, let the trial court fix at least one date in a month so that the trial of the case can be taken to its logical conclusion within a reasonable period of time.

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

(Tirthankar Ghosh, J.)