

Form J(2)

**IN THE HIGH COURT AT CALCUTTA
Criminal Appellate Jurisdiction
Appellate Side**

**Present :
The Hon'ble Justice Bibek Chaudhuri**

CRR 697 of 2021

**Dipanwita Chowdhury (Laha)
Vs.
Biplab Laha**

For the petitioner : Mr. Kalidas Saha, Adv.

**For the opposite
Party : Mr. Subir Banerjee, Adv.,
Mr. Sandip Bandyopadhyay,
Mr. Ruxmini Basu Roy, Adv.**

**Heard &
Judgement on : 21.06.2022.**

Bibek Chaudhuri, J.

The instant criminal revision is filed by the wife/petitioner against the opposite party/husband challenging legality, validity and propriety of the order dated 5th February, 2021 passed in Miscellaneous Case No. 331/2013 by the Learned Judicial Magistrate, 2nd Court at Malda.

Suffice it to say that upon contested hearing of an application under Section 125 of the Code of Criminal Procedure the Learned

Magistrate passed an order directing the opposite party to pay a sum of Rs.8,000/- per month to the petitioner towards her monthly maintenance allowance within 10th of each succeeding month.

It is not in dispute that the opposite party has been going on depositing the said sum in the Court below. The petitioner has come up before this Court in revision praying for enhancement of the quantum of maintenance allowance on the ground that the opposite party has been working as a 'Nirman Sahayak' under Jamalpur Gram Panchayat, Hili, Dakshin Dinajpur and he earns Rs.59,748/- per month towards his gross salary. His net income is Rs.34,741/-. On the other hand, the petitioner has no source of income of her own and she is fully dependent upon her old ailing parents. It is submitted by the Learned Advocate for the petitioner that in criminal Misc. Case No. 75/2012 decided on 12th February, 2013 in the case of Lalit Bhola – Vs.- Nidhi Bhola, this Court was pleased to reiterate the principles on the basis of which the Court should award maintenance. The status of the parties, requisite requirements of the claimant, income and property of the claimant, number of persons to be maintained by the husband, other liabilities of the husband and the amount required for maintenance of the wife considering the social status of the parties are certain guidelines to be followed by the Court in order to fix the

amount of maintenance allowance. It is submitted by the Learned Advocate for the petitioner that considering the gross salary and net income of the opposite party the amount of maintenance ought to be allowed at least to Rs.15,000/- per month.

Learned Advocate for the opposite party has supported the impugned judgment passed by the Court below. It is, however, admitted by him that the net income of the opposite party is Rs.34,741/- per month and he has various liabilities to perform and the Learned Trial Judge considered all such aspect of the matter and rightly fixed the quantum of maintenance allowance payable to the petitioner. It is also submitted by the Learned Advocate for the opposite party that the petitioner is a qualified and educated lady. She has passed MA, B.Ed. She is also capable to earn independently and this aspect is also required to be considered by this Court. The opposite party has taken a specific plea that the petitioner earns money by imparting tuition to students. Thus, the Learned Advocate for the opposite party has prayed for reduction of the quantum of maintenance.

Having considered the written notes of argument and the submission made by the Learned Counsels for the parties and on careful perusal of the impugned judgment it appears to this Court that

the opposite party has failed to prove that the petitioner has some independent income by way of imparting private tuition. It is not in dispute that the opposite party works as 'Nirman Sahayak' in the Department of Panchayat. His gross salary is more than Rs.59,000/-. As a 'Nirman Sahayak' or Engineer of a particular Department the opposite party holds respectable social status and such status is to be considered while granting an order of maintenance to the wife of the opposite party. The petitioner is at present dependent upon her parents. She has no independent source of income. Considering the social status of the petitioner and steep rise of expenditure bare minimum of a person this Court is of the view that a sum of Rs.10,000/- would be just and proper maintenance under the facts and circumstances of the case.

In view of the above discussion, the order passed by the Learned Magistrate in Misc. Case No. 331/2013 on 5th February, 2021 is modified directing the opposite party to pay maintenance at the rate of Rs.10,000/- per month from June, 2022. Such amount shall be paid on 10th of each succeeding month and thereafter within 10th of each succeeding month.

(Bibek Chaudhuri, J.)

Srimanta, A.R.(Ct.)