

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

Present:

The Hon'ble Justice Ajoy Kumar Mukherjee

C.R.R. 967 of 2020

Pialy Bhattacharjee

Vs.

The State of West Bengal & anr.

For the Petitioners	:	Mr. Subir Banerjee Ms. Taniya Bhowmik
For the Opposite Party	:	Mr. Manjit Singh Mr. Gaganjyot Singh Mr. Biswajit Mal
For the State	:	Ms. Manisha Sharma
Heard on	:	8 th June, 2022
Judgment on	:	13 th June, 2022

Ajoy Kumar Mukherjee, J. :-

1. This revisional application has arisen out of the impugned judgement and order dated 21.1.2020 passed by the learned Additional Chief Judicial Magistrate, Serampore, Hooghly in M.C. Case No.214 of 2013 thereby allowing payment of consolidated maintenance of a sum of Rs.8,000/- per month for the wife and her minor son, payable by the opposite party/husband.

2. Petitioner's case in a nutshell is that the petitioner was married to the opposite party no.2 on 24th February, 1999 according to Hindu rites and customs and marriage was subsequently registered.

3. It is contended that the petitioner always performed her duties towards her husband and parents in law but the opposite party no.2 misbehaved with the petitioner in different ways. Due to said wedlock a male child was born on May 12, 2004, who is presently continuing his studies at Don Bosco, Liluah. In spite of all odds, the petitioner continued her matrimonial life for the sake of uninhibited and undisturbed upbringing of her son. But suddenly on and from December 19, 2012, the opposite party no.2 without any reason left Uttarpara flat where both the parties were residing and he started to reside at Naihati with his parents. The petitioner has no separate income of her own and she is completely dependent upon her husband for herself and also for her son.

4. It is also the specific case of the petitioner that the opposite party is a teacher of Don Bosco school at Liluah and is earning salary of Rs.35,000/- per month. Further case of the petitioner is that initially an order was passed on 27.1.2014 allowing interim maintenance of Rs.2,000/- per month for herself and Rs.4,000/- per month to the minor son, that is, totaling Rs.6,000/- per month. But the said amount of maintenance was found to be inadequate and incommensurate to the standard of living of the petitioner and as such, the said order was challenged before the Hon'ble High Court by a revisional application being CRR 1819 of 2014. While disposing of the said revisional application, this High Court was pleased to enhance the amount of interim maintenance to the tune of Rs.7,500/- per month.

5. After contested hearing said M.C case No. 214/2013, U/Sec 125 Cr.P.C finally disposed of on the basis of impugned judgment dated 21.01.2020, by

which consolidated maintenance at the rate of Rs. 8,000/- per month was passed.

6. Being dissatisfied with the aforesaid judgement the present revisional application has been preferred. Though in the revisional application only maintenance amount of Rs.15,000/- per month has been prayed till disposal of the revisional application but the learned Advocate for the petitioner, Mr. Subir Banerjee, submits that due to ill-drafting the said mistake has occurred in the prayer portion of the revisional application.

7. Mr. Banerjee further contended that the learned Trial Court was erred in not ordering the maintenance from the date of the order on the ground that the petitioner all along received interim maintenance. He further submitted that the education expenses of the son is about Rs.55,000/- per annum and apart from school expenses the petitioner has to incur other expenses for herself and for her son.

8. Learned Advocate for the opposite party no.2, Mr. Manjit Singh, submits that admittedly the date of birth of their son is May 12, 2004 and as such, the said son has already attained majority on May 12, 2022 and for which the petitioner cannot have any claim of maintenance for the aforesaid child. Moreover, the husband/opposite party no.2 all along paid interim maintenance to the petitioner and no execution case is either filed or pending for realisation of arrear maintenance and as such, learned Trial Court rightly held that date of effect of the judgment would be from the date of the order and not from the date of filing of the case.

9. On perusal of the revisional application, it appears that the petitioner's own case is that the salary of the opposite party, who is a teacher, is Rs.35,000/- per month approximately as on date of filing of the application in the year 2020. The opposite party no.2 has not denied or disputed his income during hearing. It is also not in dispute in the present case that son of the parties has attained majority though admittedly he is still a student and it is contended by revisionist that both the petitioner and the son have no earnings.

10. Considering the aforesaid facts and circumstances of the case, the impugned judgement dated 21.3.2020 passed in connection with M.C. Case No.214 of 2013 by the learned Additional Chief Judicial Magistrate, Serampore, Hooghly, is hereby modified to the extent that the petitioner shall get an amount of Rs.12,000/- per month for herself and the petitioner will further get an amount of Rs.1,00,000/- towards litigation cost. The maintenance amount will be paid from the date of delivery of the judgement by trial court i.e. 21.1.2020. The adjusted arrear amount of maintenance as is accrued from 21.1.2020, shall be paid by the opposite party no.2 to the petitioner by three equal instalments within 31st August, 2022 and the monthly maintenance shall be paid within 7th day of each of the succeeding month, failing which the petitioner will be at liberty to put the order in execution before concerned magistrate.

11. With the above directions, this revisional application being CRR 967/2020 is allowed and modified to the aforesaid extent only.

12. There will be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the parties on usual undertakings.

(AJAY KUMAR MUKHERJEE, J.)