

IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction

Before:

The Hon'ble Mr. Justice Jay Sengupta

C.R.R. 1387 of 2022

Monoj Hembram
Vs.
Surjamukhi Tudu

For the Petitioner : Mr. Kunal Ganguly

Heard on : 04.05.2022

Judgement on : 04.05.2022

Jay Sengupta, J. :

This is an application challenging an order dated 16.12.2021 passed by the learned Sessions Judge, Birbhum at Suri in Criminal Motion No.15 of 2019.

Learned counsel appearing on behalf of the petitioner submits as follows. The petitioner is a Group-D employee of the Panchayat earning about Rs.16,000/- per month. The opposite party is the wife of the petitioner and the couple have two minor children. In an application filed by the opposite party claiming maintenance allowance for herself and her minor daughters, the learned Magistrate, by an order dated 26.06.2019 passed

in Miscellaneous Case No.134 of 2017, directed the present petitioner to pay a sum of Rs.2,000/- per month for the wife and Rs.1,000/- each for two minor children. The interim maintenance allowance was to be paid from the date of filing of the application. By the impugned order, the learned Sessions Judge, Birbhum dismissed the revision filed by the petitioner. The petitioner is not in a position to pay said sums of money that too from the date of application. However, he had been paying interim maintenance allowance granted in favour of the wife and the children regularly. The petitioner intends to take up all the points regarding the merits of the case before the learned Trial Court at the time of final hearing of the application under Section 125 of the Code of Criminal Procedure.

I have heard the learned counsel appearing for the petitioner and have perused the revision petition.

The marriage between the couple and the paternity of the children have not been disputed.

The petitioner is not only an able bodied man and he is a Group D employee of a Panchayat and is earning a sum of Rs.23,845/- as per salary statement for the month of October 2021.

Therefore, he cannot deny the liability to pay maintenance to his wife and children.

The sums granted as maintenance allowance for the three are not even the bare minimum to sustain three lives. However, the wife has not approached this Court within a prayer for enhancement.

In ***Rajnish vs. Neha, (2021) 2 SCC 324***, it was held by the Hon'ble Apex Court that ordinarily maintenance allowance should be granted from the date of application and not from the date of order.

Therefore, I do not find any illegality in the order of the learned Magistrate in awarding being maintenance allowance from the date of application.

In view of the above, I do not find any merit in this application. Accordingly the same is dismissed.

There shall, however, be no order as to costs.

Urgent photostat certified copies of this order may be delivered to the learned Counsel for the parties, if applied for, upon compliance of all formalities.

(Jay Sengupta, J.)

