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C.R.R. No.1088 of 2018
(Via Video Conference)

In Re: An application under Section 482 of the Code of Criminal
Procedure, 1973;

Smt. Shubhankari Ghosh Nee Suvankari Ghosh
Versus
Shri Bhagirath Ghosh

Mr. Subir Ganguly,
Mr. Sumanta Ganguly.
...for the petitioner.

Mr. Dilip Kumar Maity.
...for the opposite party.

Supplementary affidavit so filed by the petitioner be kept
with the record.

Learned advocate for the petitioner has challenged the
judgment and order dated 21.02.2018 passed by the learned
Additional Sessions Judge, Fast Track Court, Serampore, Hoooghly
in connection with Criminal Motion No.185 of 2016.

The grievance of the petitioner is that although the
learned revisional court has enhanced the amount of maintenance
from Rs.3,500/- per month to Rs.6,000/- per month, but both the
learned Magistrate as well as the learned Sessions Court have
directed for implementation of the same from the date of the order.

Learned advocate emphasizes that the said order should
be from the date of filing of the application under Section 125 of the
Code of Criminal Procedure and the petitioner as such is entitled to
the same in view of the settled authority of law. It has also been
submitted by the learned advocate appearing for the petitioner that

during the pendency of the proceedings before the learned Magistrate from 2004 to 2016, no interim maintenance was awarded by the learned trial court.

Learned advocate appearing for the opposite party submits that ordinarily the award of maintenance should be effected from the date of the order and it is exception that the same is to be effected from the date of filing of the application under Section 125 of the Code of Criminal Procedure. Learned advocate also stresses on the issue that the husband/opposite party is 82 years old and is at present a pensioner and out of the same the husband has been diligent in paying monthly maintenance, further there are no dues. Learned advocate in order to substantiate his contention relied upon **2016 CR.L.J. 1010 (Smt. Sita Bai Vs. Jethuram Sinha, 2010(2) MP LJ 124 (Narendra Vs. Usha)** and unreported judgment being **Criminal Revision No.3040 of 2005 (Smt. Anara Devi Vs. State of U.P.)**.

I have perused the said judgments so relied upon by the Hon'ble Judges of different High Courts and I find that each of the cases are independent on the factual matrix laid down therein.

In view of the contentions advanced by the petitioner, I am of the opinion that as no special reasons have been assigned by the learned Magistrate or learned Sessions Judge, there is an entitlement as for long 12 years the petitioner has financially suffered.

In view of the same, I direct that from the date of filing of the application till 2010, the petitioner would be entitled to a sum of

Rs.800/- per month and from January, 2011, the petitioner would be entitled to a sum of Rs.1200/- per month till the delivery of the judgment on 8th September, 2016.

With the aforesaid observations, CRR 1088 of 2018 is partly allowed.

Pending application, if any, is consequently disposed of.

Interim order, if any, is hereby vacated.

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

(Tirthankar Ghosh, J.)