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May 11,
2022
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C.R.R. No.1127 of 2017

In Re: An application under Section 401 read with Section 482 of the
Code of Criminal Procedure, 1973;

Agamoni Baskey
Versus
The State of West Bengal & Anr.

Mr. Soumik Ganguli,
Mr. Sourat Nandy.
...for the petitioner.

Mr. Saryati Dutta.
...for the State.

Mr. Probal Kumar Mukherjee,
Mr. Arnab Mukherjee.
...for the opposite party no.2.

The present revisional application has been preferred challenging the judgment and order dated 12th July, 2016 passed by the learned Additional District and Sessions Judge, 1st Court, Jhargram. The said revisional application was preferred by the present petitioner being aggrieved by the judgment and order dated 15.07.2015 passed by the learned CJM, Jhargram in M.R. Case No.122 of 2005, wherein in an application under Section 125 of the Code of Criminal Procedure the learned Magistrate after arriving at his conclusion regarding the entitlement of the present petitioner to receive maintenance was pleased to award a sum of Rs.3,000/- per month from the date of the order.

The judgment of the learned Magistrate reflects that from

the exhibit-5 as well as deposition of P.W.4 it is well proved that opposite party is a Senior Auditor in Defence Service (Army). Moreover, the opposite party during his cross-examination dated 17.2.2012 admitted that he is getting Gross salary of Rs.25,000/- per month from his department.

The learned Magistrate specifically observed that the petitioner was entitled to get maintenance from the date of the order.

It has been submitted on instruction by Mr. Ganguli that the petitioner was receiving a sum of Rs.1,000/- per month by way of interim maintenance.

In view of the aforesaid, I do not find any illegality in the order as that may be a special circumstance wherein the learned Magistrate would implement the maintenance to be awarded from the date of the order. However, having considered that the learned Magistrate awarded a sum of Rs.3,000/- per month on the foundation of the opposite party no.2/husband earning a sum of Rs.25,000/- per month is also surprising, I am of the opinion that the foundation on which the quantum was awarded by the learned Magistrate was grossly illegal and the same being affirmed by the learned Sessions Court is against the established principles of assessment of quantum of maintenance. The said order of the learned Magistrate was passed on 15th July, 2015 and that of the learned revisional court was passed on 12th July, 2016.

In view of the aforesaid, I direct the opposite party to pay maintenance to the petitioner from 15.07.2015 to 31st December,

2021 at the rate of Rs.7,000/- per month and on an from January, 2022 the opposite party would also pay a sum of Rs.10,000/- per month to the petitioner. Arrears, if any, would be recoverable by the petitioner by invoking appropriate provisions of law before the learned Magistrate.

With the aforesaid observations, CRR 1127 of 2017 is disposed of.

Mr. Saryati Datta, learned advocate, appears on behalf of the State and renders his assistance to this Court for arriving at the conclusion.

Pending application, if any, is consequently disposed of.

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

(Tirthankar Ghosh, J.)