

27-09-2022
Subha
Item no.75

Ct no.34

IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction

CRR 1335 of 2021

Namita Das
-versus-
State of West Bengal & Anr.

Re : An application under Section 401 read with Section 482 of the Code of Criminal Procedure.

Mr. Tapan Dutta Gupta
Mr. Parvez Anam

...for the Petitioner.

Petitioner is aggrieved by the order of interim maintenance passed by the learned Judicial Magistrate, 1st Court, Basirhat, North 24 Parganas in connection with Maintenance Case No. 457 of 2019 under Section 125 of the Code of Criminal Procedure.

I have considered the order dated 08.04.2021 passed by the learned Magistrate which is an interim maintenance of Rs.500/- per month to the wife and Rs.500/- per month to the minor daughter to be paid from the date of the order.

From the order dated 08.04.2021, it reflects that what weighed with the learned Magistrate is the plea taken by the husband that he had no fixed income and works under job card and earns only Rs.2000/- per month. The quantum of maintenance so awarded by the learned Magistrate is devoid of human face. At least a minimum amount is required for sustenance of two individuals and the learned Magistrate should also take into account the able-bodied theory.

Without going into the further details and the fact that the main proceedings under Section 125 of the Code of Criminal Procedure is pending, I direct that the quantum awarded in the order dated 08.04.2021 is not sustainable in law and is

consequently set aside.

The husband/opposite party no.2 would pay the petitioner/wife and the minor daughter Rs.1500/- per month each aggregating to a sum of Rs.3000/- per month.

The learned Magistrate while arriving at its final opinion in the proceedings under Section 125 of the Code of Criminal Procedure would consider the pros and cons regarding expenses of both the parties so far as the sustenance is considered and consequently arrive at a quantum which should be according to the minimum cost of living of an individual under the existing financial system.

Learned Judicial Magistrate, 1st Court, Basirhat, North 24 Parganas is directed to fix at least one date in a month for the purpose of the present case so that the trial can be concluded within a reasonable period of time.

With the aforesaid observations, the revisional application being CRR 1335 of 2021 is allowed.

Pending applications, if any, are consequently disposed of.

All concerned parties are to act in terms of a copy of this order duly downloaded from the official website of this court.

[Tirthankar Ghosh, J]

