

22.09.2022.

Item No. 12

ap

C.R.R. 1684 of 2021

With

I.A. CRAN 3 of 2022

In Re: An application under Section 401 read with Section 482 of the Code of Criminal Procedure, 1973 filed on 19.08.2021;

And

In the matter of: Tufan Basak.

...petitioner

Ms. Chandreyee Alam,
Mr. Dipendra Nath Bose.

...For the petitioner.

Mr. Avik Ghatak,
Ms. Afreen Begum.

...For the opposite party.

Affidavit-in-opposition so filed by the opposite party be kept with the record.

Ms. Alam, learned Advocate appearing for the petitioner submits that the petitioner is about to retire on 30th September, 2022.

The subject matter of the revisional application relates to a quantum of maintenance awarded by the learned Magistrate during the period when the petitioner was in service.

Attention of the Court has been drawn by the petitioner to page 42, which is a Bank Statement, reflecting the salary account of the present petitioner. The said statement reflects that gross salary received by the petitioner is Rs.1,27,660.95 and there are deductions which are reflected therein.

The learned Magistrate after consideration of the same by its order dated 8th August, 2019 was pleased to enhance the monthly maintenance from Rs.5,500/- to Rs.15,000/-.

However by the same order, the maintenance awarded in favour of the son was vacated.

Being aggrieved thereby, the wife/opposite party challenged the same in a Criminal Revision No. 389 of 2019 which was decided by the learned Additional District Judge, Fast Track-IV, Barrackpore, North 24 Parganas.

The learned Sessions Court by its order was pleased to enhance further to Rs.30,000/- per month to be paid to the wife/opposite party.

Being aggrieved with the said order of the learned Sessions Court, the present revisional application was preferred before this Court.

Learned Advocate for the opposite party submits that there are dues of about Rs.4,00,000/-.

Having regard to the fact that gross salary which was reflected in the salary account of the petitioner as enclosed in the revisional application being Rs.1,27,000/- (approximately), I am of the opinion that the amount so awarded is less than even $1/4^{\text{th}}$ of the amount of the gross salary.

Having regard to the facts as aforesaid, I am of the opinion that there is no scope for interference so far as the order passed by the learned Sessions Judge/Revisional Court is concerned, being Criminal Revision No. 389 of 2019. However, as pointed out by Ms. Alam that the petitioner is to retire on 30th September, 2022, the same is a fresh circumstance which is to be adjudicated by taking out an

application in the nature of Section 127 of the Code of Criminal Procedure before the jurisdictional Court.

If such an application is filed before the jurisdictional Court, the jurisdictional Court would after adducing proper evidence, dispose of the same in accordance with law within a period of three months from the date of filing of the said application.

Since execution case is pending before the jurisdictional Court, the wife would be at liberty to take steps before the said Court.

Accordingly, C.R.R. No. 1684 of 2021 is disposed of. Pending application, if any, is also disposed of.

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

(Tirthankar Ghosh, J.)