

21.04.2022

Item No.31
Ct.No.34
dc.

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION**

C.R.R. 1697 of 2017

**Smt. Nurunnessa Khatun (Begum) & Anr.
versus
Mustak Ali Mallick & Anr.**

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

Mr. Binay Shaw ... For the Petitioners.

Mr. Sibojyoti Chakrabarti,
Ms. Indrani Lahiri ... For the Opposite Party No.1.

Mr. Imran Ali,
Ms. Debjani Sahu ... For the State.

The subject matter of challenge before this Court is the reduction of the award of maintenance passed by learned Additional Sessions Judge, 2nd Court, Katwa on 23.02.2017 in Criminal Revision No. 55 of 2015.

The genesis of the case relates to a proceeding being Misc. Case No. 22/11 (T.R.No. 08/11) wherein by an order dated 27.04.2015, the learned Judicial Magistrate, 3rd Court, Katwa, Burdwan after considering the evidence adduced on behalf of both the parties was pleased to award maintenance of Rs.7,500/- per month to the wife and Rs.5000/- per month to the minor daughter aggregating to a sum of Rs.12,500/- per month.

Being aggrieved by such order of award of maintenance, the husband preferred a revisional application before the learned sessions court and the learned sessions court by its order dated 23.02.2017 was pleased to reduce

the amount of maintenance and directed a sum of Rs.5000/- per month to be paid to the wife and Rs.3000/- per month to be paid to the minor daughter from the date of passing of the order i.e. 27.04.2015.

It has been submitted by the learned advocate appearing for the husband/opposite party no.1 that presently he is getting a sum of Rs.42,000/- per month as salary.

In view of the settled proposition of law, I am of the opinion that at least 1/3rd of the amount should be disbursed by way of maintenance to the wife and the minor daughter. Having regard to the same, I am of the opinion that the award of maintenance so passed by the learned Additional Sessions Judge, 2nd Court, Katwa on 23.02.2017 in Criminal Revision No. 55 of 2015 is to be set aside.

Consequently, the revisional application being CRR 1697 of 2017 is allowed.

The wife/petitioner is entitled to receive a sum of Rs.7,500/- per month for herself and Rs.5000/- per month for the minor daughter as was earlier passed by the learned Judicial Magistrate, 3rd Court, Katwa, Burdwan.

Learned advocate for the husband/opposite party no.1 has submitted that there has been change of circumstances which could not be brought before the learned trial court as well as the learned appellate court as the same are subsequent events.

In view of such submission made by the learned advocate for the husband/opposite party no.1, I direct that in

case an application under Section 127 of the Code of Criminal Procedure is filed by the husband/opposite party no.1 and necessary evidence is adduced before the learned trial court, the learned trial court would consider the same in accordance with law.

The husband/opposite party no.1 is directed to pay maintenance as earlier directed by the learned Judicial Magistrate, 3rd Court, Katwa, Burdwan until and unless the same is altered by any other competent court.

All pending connected applications, if any, are consequently disposed of.

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

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Tirthankar Ghosh, J.)