

28.11. 2022  
item No.12  
n.b.  
ct. no. 551

**CRR 1984 of 2017**

**with**  
**IA No. CRAN 1 of 2018(Old No.1933 of 2018)**

**Munmun Mondal**  
**Vs.**  
**State of West Bengal & Anr.**

Mr. Soumyajit Das Mahapatra,  
Ms. Oindrila Ghosh,  
....for the petitioners.  
Mr. Arnab Chatterjee,  
Ms. Dhanasree Biswas  
... for the opposite party.

This is an application under Section 482 read with 401 of the Code of Criminal Procedure filed against the impugned judgment dated May 31, 2017 passed by the Additional District and Sessions Judge, 7<sup>th</sup> Court at Paschim Medinipur in criminal revision No.06 of 2017 arising out of judgment dated 07.12.2016 passed by Additional Chief Judicial Magistrate, 1<sup>st</sup> Court, Jhargram at Paschim Medinipur in M. R. Case No.108 of 2005 under Section 125 of the Code of Criminal Procedure.

The present petitioner is the wife and private opposite party is the husband. The M.R. case was initiated under Section 125 of the Code of Criminal Procedure claiming maintenance by the wife and her minor daughter. The ACJM has disposed of the M.R. case with a direction to pay Rs.10,000/- per month towards the maintenance allowance to the wife and her minor daughter to be paid by the husband. Against the said order the husband

preferred a criminal revision before the Learned District Judge. Learned Additional Sessions Judge passed the impugned order wherein the maintenance allowance was reduced to Rs.7,000/- i.e. Rs.4,000.- for the wife and Rs. 3,000/- per month for her minor daughter. The reduction of the maintenance amount is the issue in question here.

It appears that the impugned judgment based on the ground that, the maintenance application filed by the wife before the learned Magistrate is claiming the maintenance of Rs.7,000/-. Learned Additional District and Sessions Judge was of view that the maintenance amount cannot be enhanced by the Magistrate more than it was claimed. However, I find no such infirmity in the said finding but considering the circumstances, it appears to me that the impugned judgment was passed in the year 2017; we are now at 2022. The daily expenses have enhanced to a very much higher scale. The maintenance amount of wife and the minor daughter has to be considered a fresh. In that score Section 127 of the Code of Criminal Procedure has provided for enhancement of the maintenance amount in changed circumstances..

In my view, the parties must adopt such procedure to have a better maintenance irrespective of the comments passed by the learned Court below in both the proceeding. I made it clear that the findings of the learned Magistrate and the findings of the learned Additional Sessions Judge is in respect of the maintenance amount in a proceeding of Section 125 of the Code of Criminal Procedure, has no impact upon any proceeding of Section 127 of the Code of Criminal Procedure. So learned Magistrate is at liberty

to consider the maintenance amount as enumerated under Section 127 of the Code of Criminal Procedure and law laid down thereon. In considering the same, the learned Court below must adhere to the judgment passed by the Hon'ble Supreme Court in the matter of *Rajesh Vs. Neha & Anr reported in (2021) 2 SCC 324*.

Under facts and circumstances as discussed above the instant criminal revisional application is disposed of with a direction to the petitioner to move the learned jurisdictional Magistrate so, that the matter can be again decided afresh regarding enhancement maintenance as per the provisions of Section 127 of the Code of Criminal Procedure and by virtue of the judgment of Hon'ble Supreme Court in the in the matter of *Rajesh Vs. Neha & Anr reported in (2021) 2 SCC 324*.

Learned Magistrate is also directed to dispose of the matter as early as possible more preferably, within five months from the date of filing of the petition before the Magistrate.

Accordingly, pending connected applications, if any, are disposed of.

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

**( Subhendu Samanta, J.)**