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C.R.R. No.2239 of 2021

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

Kartick Chandra Paul
Versus
The State of West Bengal & Ors.

Mr. Dipanjan Dutt,
Mr. Sabyasachi Jana,
Mr. Souma Subhra Roy,
Ms. Poulome Patra.
...for the petitioner.

Mr. Arijit Ganguly,
Mr. Sanjib Kumar Dan.
...for the State.

Mr. Sambhunath De,
Mr. Ranjit Kumar Ghosh.
For the opposite party nos.2 and 3.

Mr. Dipanjan Dutt, learned advocate appearing for the petitioner has challenged the judgment and order dated 26th August, 2021 passed by the learned Additional Sessions Judge, Fast Track Court No.4, North 24-Parganas in Criminal Revision No.488 of 2019 wherein the learned court was pleased to enhance the quantum of maintenance to the tune of Rs.10,000/- per month to the wife/opposite party no.2 and Rs.8,000/- per month to the minor daughter/opposite party no.3.

The subject matter of the revisional application before the learned sessions court relate to the final order and judgment passed by the learned Judicial Magistrate, 2nd Court, Barrackpore in Misc. Case No.259 of 2012 wherein on 23.09.2019 learned Magistrate was

pleased to direct the husband to pay Rs.6,000/- per month to the wife/opposite party no.2 and Rs.4,000/- per month to the minor daughter/opposite party no.3. Learned Magistrate by its order dated 23.09.2019 was further pleased to hold that the quantum so fixed on 23.09.2019 would be effective from that date only. The revisional court while passing the aggregate amount to Rs.18,000/- per month was pleased to direct that the said amount should be paid from the date of filing of Misc. Case No.259 of 2012.

The petitioner before this Court is aggrieved on three counts. Firstly, regarding the enhancement of the maintenance; secondly, regarding such quantum of enhanced maintenance being imposed from the date of filing of the application and thirdly, regarding the age of the minor child.

On an appreciation of the present earnings of the petitioner, I am of the opinion that so far as the amount fixed by the learned sessions court/revisional court is concerned, the aggregated maintenance of Rs.18,000/- per month (Rs.10,000/- per month for the wife/opposite party no.2 and Rs.8,000/- per month for the minor daughter/opposite party no.3) are just and appropriate and the said quantum, as such, do not call for any interference.

So far as the second issue regarding payment of such quantum from the date of the application under Section 125 of the Code of Criminal Procedure is concerned, I find from the records of the case that by order dated 19.03.2013, the learned Magistrate was pleased to allow the interim maintenance to the tune of Rs.3,000/- per month to the opposite party no.2 and Rs.2,000/- per

month to the opposite party no.3 and the said amount continued till the final judgment was passed by the learned Magistrate on 23rd September, 2019.

In view of the fact that the wife/opposite party no.2 and the daughter/opposite party no.3 were paid interim maintenance during the pendency of the application under Section 125 of the Code of Criminal Procedure till it was finally decided, I am of the opinion that such aggregated amount of Rs.18,000/- per month (Rs.10,000/- per month to the opposite party no.2 and Rs.8,000/- per month to the minor daughter/opposite party no.3) should be paid by the petitioner to the opposite party no.2 and the opposite party no.3 from the date of passing of the final order of the learned Magistrate, i.e. 23.09.2019.

So far as the third issue regarding the age of the minor daughter and her entitlement to maintenance is concerned, the same do not call for any interference by this Court as the said issue was never agitated before the learned trial court or before the learned sessions court when the final order was either passed by the learned Magistrate or by the revisional court. The petitioner, if so advised, will take appropriate steps before the learned Judicial Magistrate, 2nd Court, Barrackpore, North-24 Parganas.

As submitted by the parties, pursuant to the order dated 14th June, 2022 substantial payments have been made and it has been submitted by the learned advocate for the petitioner that so far as the instructions are concerned, there are hardly any dues.

Mr. De, learned advocate appearing for the opposite party

nos.2 and 3 mildly opposes such contentions of substantial amount being paid and submits that complete dues which the opposite party nos.2 and 3 are entitled have not been paid.

With the aforesaid observations, CRR 2239 of 2021 is disposed of.

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.

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

(Tirthankar Ghosh, J.)