

28.01.2022

Item No.13
Ct.No.34
dc.

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

C.R.R. 2609 of 2019
(Via Video Conference)

Smt. Baisakhi Dutta
versus
Sri Chandan Dutta

In Re: An Application under Section 401 read with Section 397 of the Code of Criminal Procedure filed against the judgement and order dated 8th April, 2019 passed by learned Judicial Magistrate, 1st Court, Garhbeta, Paschim Medinipur in connection with M.R. Case No. 1 of 2015 under Section 125 of the Code of Criminal Procedure.

Ms. Aiswarjya Gupta ... For the Petitioner.

Ms. Malyasree Maity ... For the Opposite Party.

The petitioner has approached this Court against the judgement and order dated 8th April, 2019 passed by learned Judicial Magistrate, 1st Court, Garhbeta, Paschim Medinipur in connection with M.R. Case No. 1 of 2015 under Section 125 of the Code of Criminal Procedure.

Learned advocate for the petitioner submits that the learned Magistrate in spite of appreciating the evidence and materials on record regarding the employment of the husband/opposite party, awarded a paltry sum of Rs. 6,000/- per month as maintenance of the wife/petitioner as she was getting interim maintenance.

Learned advocate appearing for the husband/opposite party has filed affidavit-in-opposition before this Court. Let the same be kept with the record.

The affidavit-in-opposition includes a declaration relating to the assets of the husband.

Without going into the details of all the documents, so presented by the husband/opposite party, I have restricted myself to salary statement of the financial years 2019-20 and 2020-21 of the husband/petitioner. Again without going into the details of how much is being contributed towards GPF, I find that net salary during these two financial years range from Rs.35,220/- to Rs.36,860/-. On this sole consideration, I am of the opinion that the amount so awarded by the learned Judicial Magistrate is not commensurate with the status of the husband/opposite party which is also one of the considerations for awarding maintenance. Accordingly, the judgement and order dated 8th April, 2019 passed by the learned Judicial Magistrate, 1st Court, Garhbeta, Paschim Medinipur in connection with M.R. Case No. 1 of 2015, so far as it relates to the quantum of awarded amount, is set aside.

The husband/opposite party is hereby directed to pay maintenance of Rs.12,000/- (Rupees twelve thousand) per month to the wife/petitioner which is approximately 1/3rd of the net salary assumed by the husband/opposite party for the aforesaid two financial years. The said amount would be paid in the mode and manner as has been directed by the learned Judicial Magistrate, 1st Court, Garhbeta, Paschim Medinipur.

Needless to state that I have not gone into the other issues which have been agitated by either of the parties. If

there are other materials on record which the petitioner or the opposite party intends to bring on record, the parties would be at liberty to take out an application under the appropriate provisions of law and the learned Magistrate is directed to dispose of the same, if required by allowing the concerned party to adduce evidence.

Learned advocate appearing for the husband/opposite party submits that the amount which is to be paid by way of arrears would be huge burden upon the opposite party. Accordingly, the learned Magistrate would, if an application is taken out by the husband/opposite party, allow him to liquidate the arrears by 10 (ten) equal instalments to be paid by 18 (eighteen) months from date.

With the aforesaid observations, the revisional application being CRR 2609 of 2019 is partly allowed.

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.)