

06.12.2022

Item No.36
Ct.No.34
dc.

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

C.R.R. 2576 of 2021

**Manoj Kumar Singh
versus
Smt. Suman Singh & Anr.**

In Re: An Application under Section 401 read with Section 482 of the Code of Criminal Procedure, 1973.

Md. Sabir Ahmed,
Md. Abdur Rakib ... For the Petitioner.

Mr. Sankha Subhra Ray ... For the Opposite Party No.1.

Mrs. Sujata Das ... For the State.

Report dated 01.12.2022 submitted by Mrs. Sujata Das, learned advocate appearing for the State be kept on record.

Petitioner herein has challenged the order dated 22.07.2021 passed by learned Additional Sessions Judge, Fast Track Court-IV, Barrackpore in Criminal Revision No. 374 of 2018 wherein the subject-matter of challenge related to the order dated 08.08.2018 passed by learned Judicial Magistrate, 3rd Court, Barrackpore in connection with Misc. Case No. 790 of 2016. The learned Judicial Magistrate, 3rd Court, Barrackpore by its order dated 08.08.2018 was pleased to allow interim maintenance from the date of filing of the application for an aggregated sum of Rs.11000/- per month. Learned Sessions Judge/revisional court in its order dated 22.07.2021 was pleased to enhance the same to an aggregated sum of Rs.20000/- per month.

This Court by way of interim measure on 26.09.2022 directed that the husband/petitioner should clear the dues of aggregated amount of Rs.11000/- from the date of the application till the month of July 2021 and further directed that on and from August 2021, the husband would go on paying the aggregated amount of Rs.20000/-.

The case was filed in the year 2016 and till date, the parties are at loggerheads on the issue relating to interim maintenance. The evidence of the case has just commenced. In such circumstances, I direct that the evidence of the case be completed by 31.03.2023.

Both the parties have raised issues. Mr. Ahmed, learned advocate on behalf of the husband/petitioner has raised the issue that the daughter has attained the age of majority, the wife is earning and left the house voluntarily. On the other hand, learned advocate for the opposite party no.1/wife contended that the husband has been taking frivolous plea and the amount of interim maintenance was recovered by way of filing consecutive execution cases.

Be that as it may, the issues so canvassed are question of facts. The parties would adduce their evidence and the same would be assessed by the learned Judicial Magistrate, 3rd Court, Barrackpore. I direct that in case, the learned Judicial Magistrate after assessment of the evidence, arrives at a finding regarding the quantum of maintenance, the learned Magistrate would allow the same from the date of

filing of the application provided the adjustment should be made in case there is excess payment or deficit payment.

Needless to state that any observations made by this Court is for the limited purpose of disposing of the present revisional application. This Court has not gone into the merits of the entitlement or disentitlement of either of the parties. The learned Magistrate would arrive at its independent finding.

With the aforesaid observations, the revisional application being CRR 2576 of 2021 is disposed of.

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.)