

D/L 33
January 27,
2022
Bpg.

C.R.R. No.3028 of 2017
(Via Video Conference)

In Re: An application under Sections 397/401 read with Section 482 of
the Code of Criminal Procedure, 1973;

Manjura Begum
Versus
Mashiar Rahaman

Mr. Biswajit Manna.
...for the petitioner.

The High Court by an order dated 26.07.2013 in CRR
1915 of 2007 passed the following order:

“Be that as it may, I direct

- i) the maintenance amount should be Rs.2,500/- per month payable by the husband/opposite party to the petitioner till her death or re-marriage whichever is earlier. Such amount has to be paid by 7th of every corresponding proximo, failing which the petitioner shall have the liberty to take recourse by filing proper proceedings.
- ii) Regarding the valuation of the gold ornaments it was submitted by the learned lawyer of the petitioner that even the amount awarded to the petitioner in the judgment of the Court below has not been paid. In such a situation, the husband/opposite party is further directed to pay Den Mohar and litigation cost to the extent of

Rs.50,000/- to the petitioner.

- iii) The arrear amount of monthly maintenance has to be paid from 13.05.1997 in 10 equal monthly installments in addition to current installment until the arrear is liquidated.”

The petitioner on or about 22.5.2017 made an application under Section 127 of the Code of Criminal Procedure before the learned Magistrate for enhancement of the said maintenance amount. Learned Magistrate dismissed the same on the ground that such an order for enhancement cannot be passed under the provisions of Muslim Women (Protection of Rights on Divorce) Act.

Since the order dated 26.07.2013 passed in CRR 1915 of 2007 has remained unchallenged, I direct the learned Magistrate not to restrict himself to a narrower interpretation of the provisions and consider the application under Section 127 of the Code of Criminal Procedure according to the present cost index for survival of an individual which would be commensurate with the status of the husband.

Needless to state that the said order for maintenance was passed in the year 2013 and presently we are in the year 2022, i.e. more than eight years have passed and there has been sea-change in the expenditure involved by an individual to survive.

The learned Magistrate would freshly consider the application under Section 127 of the Code of Criminal Procedure by issuing notice to both parties and would dispose of the same within

a period of ninety days from the date of communication of this order.

With the aforesaid observations, CRR 3028 of 2017 is disposed of.

Pending application, if any, is consequently disposed of.

Department is directed to communicate this order to the learned Chief Judicial Magistrate, Nadia.

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

(Tirthankar Ghosh, J.)