

09.03.2022

Item No.23
Ct.No.34
dc.

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

C.R.R. 3316 of 2019

**Smt Shyama Sarkar Pal
versus
Sri Sanjit Sarkar & Anr.**

In Re: An Application under Section 482 read with Section 401 of the Code of Criminal Procedure filed for challenging the order dated 03.09.2019 passed by learned Judicial Magistrate, 5th Court, Hooghly Sadar in connection with Misc. Case No. 77 of 2018.

Mr. Dhiraj Trivedi,
Mr. Bikash Kumar Singh ... For the Petitioner.

Md. Amin,
Mr. Supriyo Das ... For the Opposite Party No.1.

The petitioner is aggrieved by the quantum of maintenance awarded by the learned Judicial Magistrate, 5th Court, Hooghly Sadar. Records reflect that by an order dated 03.09.2019, the learned Magistrate was pleased to award interim maintenance of Rs.5000/- per month to the wife and Rs.5000/- per month to the minor daughter aggregating to a sum of Rs.10,000/- per month to be paid by the opposite party/husband.

Learned advocate appearing for the opposite party no.1 has filed affidavit-in-opposition. Let the same be kept on record.

On perusal of the documents available, I find that the opposite party no.1 is a government servant associated with the Indian Railways. Some documents have been enclosed in support of the contention regarding the salary received by the

opposite party no.1/husband. I am not inclined to enter into the issue regarding the intrinsic value of the document so placed in the court in terms of the fact that the evidence of the case is yet to commence and each of the parties would be at liberty to question the genuineness and authenticity of the said document at the appropriate stage of the trial.

Having regard to certain admitted features of this case, I am of the opinion that minor daughter who has been awarded a sum of Rs.5000/- per month and by this time is a school going child, her expenses may not be commensurate with the quantum so awarded by way of interim maintenance by the learned Magistrate. Accordingly, so far as the minor child is concerned, the amount of Rs.5000/- per month so awarded, is enhanced to Rs.10,000/- per month to be paid by the husband in the mode and manner as has been stated by the learned Magistrate in his order dated 03.09.2019.

So far as the interim maintenance award to the wife is concerned, the same is not interfered with.

The husband/opposite party no.1 would pay an aggregated sum of Rs.15,000/- per month so far as this proceeding is concerned subject to adjustment made in respect of payments/directions which have been passed in separate proceedings.

Learned Judicial Magistrate, 5th Court, Hooghly Sadar is directed to proceed with the main application under Section 125 of the Code of Criminal Procedure and dispose of the same by adhering to the provisions under Section 309 of

the Code of Criminal Procedure and arrive at his finding preferably within a period of one year from the date of communication of this order.

With the aforesaid observations, the revisional application being CRR 3316 of 2019 is disposed of.

Interim order, if any, is hereby vacated.

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.)