

02-01-2023
Subha
Item no.35
Ct no.34

IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction

CRR 247 of 2021

Salma Khatoon
-versus-
The State of West Bengal & Anr.

Re : An application under Section 482 of the Cr.P.C.

The revisional application was preferred challenging the Judgement and Order dated 19.12.2019 passed by the learned Additional Sessions Judge, Fast Track, 1st Court at Howrah in Criminal Appeal Case No. 111 of 2018.

The said appeal was preferred against the judgement and order passed by the learned Judicial Magistrate, 4th Court, Howrah dated 15.11.2017 in Misc. Case No. 357 of 2014 wherein the learned court was pleased to award monthly maintenance of Rs.3500/- to the petitioner under Section 125 of the Code of Criminal Procedure.

The draft of the judgement reflects that an application under Section 125 of the Code of Criminal Procedure was preferred by the applicant/wife.

Under such circumstances, it is not clear to this court how a criminal appeal would lie against an award of maintenance passed by the learned Judicial Magistrate, 4th Court, Howrah.

I also do not find that any cogent was assigned by the learned Sessions Court while reducing the amount from Rs.3500/- per month to Rs.2000/- per month.

Considering the illegalities which are palpably appearing on the face of the record, I am of the opinion that the order dated 19th December, 2019 passed by the learned Additional Sessions Judge, 1st Fast Track Court, Howrah calls for interference.

Thus, the reduction in the quantum of amount from Rs.3500/- per month to Rs.2000/- per month directed to be paid to the petitioner is hereby set aside.

The order passed by the learned Judicial Magistrate, 4th Court, Howrah dated 15.11.2017 in Misc. Case No. 357 of 2014 is hereby affirmed.

The petitioner would be at liberty to claim arrears by filing appropriate application before the learned Judicial Magistrate, 4th Court, Howrah.

Accordingly, the present revisional application being CRR 247 of 2021 is disposed of.

Pending applications, if any, are consequently disposed of.

All concerned parties are to act in terms of a copy of this order duly downloaded from the official website of this court.

[Tirthankar Ghosh, J]

