

D/L21
13.09.2023
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C.R.R.582 of 2023

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

Himadri Sekhar Paul
Versus
Pragati Paul Sharma

Mr. Uday Sankar Chattopadhyay
Ms. Snigdha Saha
Ms. Trisha Rakshit
Ms. Aiswarya Dutta.
...for the petitioner.

Petitioner is aggrieved by the fact that the learned Judicial Magistrate, 7th Court, Asansol in connection with Misc. Case No.496 of 2017 was pleased to allow the application under Section 125 of the Code of Criminal Procedure and granted maintenance allowance of Rs.5,000/- per month to the wife and Rs.3,000/- per month to the minor child.

Mr. Chattopadhyay, learned advocate appearing for the petitioner submits that it is practically impossible for the petitioner to part with a sum of Rs.8,000/- per month as his earning is not to the extent of which the money has been directed to be paid towards maintenance under Section 125 of the Code of Criminal Procedure.

Having regard to the submissions so advanced vis-à-vis the amount which has been awarded by the learned Judicial Magistrate, 7th Court, Asansol, I am of the view that there is no scope for interference in view of the evidence already appearing in the record. If there are materials in possession of the petitioner

which could not be placed before the jurisdictional court at the time when the trial was progressing. The petitioner would produce such materials by way of taking out an application under Section 127 of the Code of Criminal Procedure before the learned Judicial Magistrate, 7th Court, Asansol who would take a fresh decision in the application under Section 127 of the Code of Criminal Procedure if the evidence so surfaces in support of the petitioner.

With the aforesaid observations, CRR 582 of 2023 is disposed of.

Pending application, if any, is 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 of all requisite formalities.

(Tirthankar Ghosh, J.)