

23.02. 2023
item No.12
n.b.
ct. no. 551

CRR 949 of 2017

**Suchitra Halder & Anr.
Vs.
The State of West Bengal & Anr.**

Mr. Soumik Ganguli,
Mr. Supriyo Shasmal,
... for the petitioner.

Mr. Debasis Sur,
Mr. Hare Krishna Halder,
Mr. Angshumen Patra,
Mr. Himadri Sekhar Paul,
Ms. Anindita Chatterjee,
..... for the opposite party.

The instant criminal revisional application has been preferred against the Judgment and Order dated December 17, 2016 passed by Learned Sessions Judge, Purulia in criminal revision No. 15 of 2015 arising out of order dated 29.4.2012 passed by the Learned Chief Judicial Magistrate, Purulia in connection with Misc. Case No. 234 of 2012 under Section 125 of the Code of Criminal Procedure.

The present petitioners are the wife and minor daughter of opposite party no.2. The brief fact of the case is that the wife and the present petitioner preferred an application under Section 125 of the Code of Criminal Procedure against the private opposite party for getting maintenance. After considering the rival submissions learned Magistrate passed the order of maintenance to the tune that opposite party has to pay 5,000/- to the petitioner and 3,000/- to her minor child per month towards the maintenance. Against

such order the criminal revisional application been preferred before the learned Sessions Judge, Purulia vide criminal revision No.15 of 2015. By the order impugned learned Sessions Judge has disposed of the criminal revisional application with a direction to pay the maintenance @ Rs.5,500/- to the petitioner and Rs.3.500/- per month to the minor child. Being aggrieved and dis-satisfied with the impugned order instant revisional application has been preferred.

Learned advocate for the petitioner submits that the impugned order was passed in the year 2006. Now, in the present stag of inflation, it is not possible for the present petitioners to carry out their living along with study of the minor child in such minor amount of maintenance. He further argued that in disposing of the maintenance proceeding the guideline of Hon'ble Supreme Court enumerated in *Rajnish Vs. Nena* has not been followed. He again argued that private opposite party no.2 is the assistant teacher of a school and earning a huge amount of money approximately 80,000/- per month, so the amount of maintenance awarded by leaned Sessions Judge is very meagre one; he prayed necessary order for enhancement of maintenance by setting aside the impugned order.

Learned advocate appearing on behalf of the opposite party raised strong objection and submitted that the petitioner has preferred another revisional application against the said order, which was disposed of. He again submitted before this Court that he is regularly paying the maintenance according to the order of learned Sessions Judge. There is no gap or any default for such

payment. He again argued that salary of the present opposite party no.2 is not more than 50,000/-

Heard the learned advocate perused the materials on record, perused the impugned order also perused the order passed by the learned Magistrate. It is true that a maintenance proceeding should be disposed of by virtue of direction of the Hon'ble Supreme Court passed in *Rajnish Vs. Nena*. However, the impugned order was passed in the year 2016, now, we are running in year 2023. So, considering the present value of the Essential Commodities the living of the present petitioners in these day is very difficult in such meagre amount of maintenance. However, I am remanding the case back to the learned Magistrate to conclude the maintenance proceeding according to the direction passed by the Hon'ble Supreme Court in *Rajnish Vs. Neha*.

It further appears to me that the amount of maintenance i.e. total 9,000/- per month towards the present petitioners and her minor daughter appears to meagre one so, present opposite party is hereby directed to pay the monthly maintenance to the tune of Rs. 7,000/- in favour of the wife and Rs.5,000/- in favour of his minor daughter. The amount of maintenance should be paid according to English Calendar month within the 10th day of each succeeding month.

The order of maintenance as passed by the learned Sessions Judge is hereby set aside.

The order of maintenance passed by this Court shall be exceeding till it has been finally disposed of and determined by the learned Magistrate.

Learned Magistrate is at liberty to dispose of maintenance proceeding according to the direction passed by the Hon'ble Supreme Court in *Rajnesh Vs. Neha*; without being influenced by the order of maintenance passed by the Court.

Accordingly, CRR 949 of 2017 is disposed of.

Lower Court record is sent down immediately to the learned Magistrate.

Learned Magistrate is further directed to dispose of proceeding as early as possible more preferably within June 2023.

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

(Subhendu Samanta, J.)