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C.R.R.1406 of 2021

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

Sri Swarup Kumar Sen and another
Versus
Smt. Chhanda Sen and another

Mr. Apurba Kr. Datta.
...for the petitioners.

Mr. Jayanta Mitra.
...for the opposite party no.1.

Ms. Sujata Das.
...for the State.

The revisional application was preferred challenging the order passed in Criminal Appeal No.01 of 2020 wherein the learned Additional Sessions Judge, 2nd Court, Bankura directed that the wife be allowed to reside in her matrimonial house at Village Talanjuri under P.S.-Kashipur, District-Purulia, subject to convenience of the aggrieved wife.

Mr. Datta, learned advocate appearing for the petitioners submits that the petitioners are ready and willing to provide alternate accommodation and/or cost of the alternate accommodation.

The same was not an issue before the learned appellate court. The same is a changed circumstance which was not considered by the appellate court. Such a proposal should have been offered before the learned appellate court, who considered the

right of residence of the wife. So far as the legality of the issue is concerned in criminal appeal, I am of the opinion that there is no illegality in the order so passed by the appellate court.

The petitioners before this Court would be at liberty to apply before the appellate court for alternate proposal which point was never canvassed before the appellate court. The appellate court's verdict was on the issue whether the wife is entitled to have a right of residence in the shared household. To that effect, there is no illegality in the order or in the opinion of the learned appellate court. No interference is called for in this revisional application.

Accordingly, CRR 1406 of 2021 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.)