

12.12.2023
Item No. 22
BR

CRR 2101 Of 2015

In the matter of: Tapas Kumar Mondal

No body appears on behalf of the either of the parties on call.

Even on earlier occasion no one represented on behalf of the petitioner. No accommodation has been sought for.

This case is pertaining to year 2015.

In view of the aforesaid facts, nature of relief sought for and to avoid further delay, I am inclined to dispose of this matter on merit.

This application has been filed by the Petitioner/husband under Section 482 of the Code of Criminal Procedure, 1973, feeling aggrieved with an order dated 28th April, 2015 passed by learned Additional Sessions Judge, 3rd Court, Hooghly in criminal revision No. 21 of 2015 whereby the learned Sessions Judge allowed the criminal revisional application in part on contest and awarded a monthly maintenance allowance at the rate of Rs.

5,000/- per month for opposite party/wife and Rs. 2,000/- for her litigation cost.

It is the contention of the petitioner that opposite party/wife had filed an application under Section 125 of Cr. P. C. before the learned 4th Judicial Magistrate, Hooghly Sadar being Misc. Case No. 136 of 2014 praying for maintenance as there was a matrimonial dispute and she was residing separately. Petitioner could not appear before the Learned Magistrate due to medical grounds but the learned Magistrate awarded a sum of Rs. 10,000/- per month in favour of opposite party no. 2 towards maintenance from the date of filing of application exparte without considering the actual income of the petitioner/husband and only on the basis of the surmises and conjectures allowed maintenance to the tune of Rs. 10,000/- per month.

Being aggrieved with the said impugned order, the petitioner/husband had preferred a revisional application before the learned Additional Sessions Judge, 3rd Court, Hooghly being criminal revision No. 21 of 2015. The said revisional application was disposed of by the learned Additional Sessions Judge after hearing both sides observing therein

that the learned Magistrate has passed the order of maintenance allowance at the rate of Rs. 10,000/- per month in favour of the opposite party/wife and Rs. 3,000/- as litigation cost only on the guess work. Learned Magistrate accepted the earning as Rs. 45,000/- per month exparte is not acceptable and finally came to the conclusion that the opposite party/wife is entitled to get Rs. 5,000/- per month for her maintenance allowance and Rs. 2,000/- for her litigation cost on and from 11.11.2014.

Feeling aggrieved further with the impugned order as aforesaid, the petitioner again filed this instant application before this Court.

Having gone through the materials available on record as well as judgment passed by the learned Additional Sessions Judge, this Court does not find any jurisdictional error or illegality or perversity in the impugned order under challenge because it is admitted fact that petitioner and opposite party are husband and wife and she has no income of her own to maintain herself. It is obligation of the husband to maintain his wife, when she is unable to maintain herself subjected to certain conditions as

stipulated under Section 125 of the Crpc. No such conditions transpire from the record.

Accordingly, **CRR 2101 of 2015** is thus, dismissed.

There will be no order as to costs.

Interim order, if any, stands vacated.

Let a copy of this order be sent to the learned Court below for information.

Urgent xerox certified copy of this order, if applied for, be given to the learned advocate for the parties on usual undertakings.

(Ajay Kumar Gupta, J.)