

17.07.2023

Item No.5
Ct.No.34
dc.

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION**

C.R.R. 2555 of 2023

In the matter of : **Smt. Suchandra Dey (Pal)** ... Petitioner.

Mr. Surajit Basu,
Ms. Ranu Mondal ... For the Petitioner.

The present revisional application has been preferred challenging the order dated 11.05.2023 passed by learned Judicial Magistrate, 2nd Court, Barasat in connection with M. Case No. 60 of 2022. The reason which weighed with the Court for rejecting the application for maintenance dated 29.01.2022 is that in Case No. C. 524 of 2022, the petitioner has been allowed an interim maintenance of Rs.10,000/- per month.

The present proceeding is under Section 125 of the Code of Criminal Procedure. The court has to independently come to a finding regarding the interim maintenance so far as the present proceeding is concerned. If any monetary relief is granted under a separate proceeding, the same would be adjusted and the higher amount would be awarded for regular payments being made to the aggrieved party or to the lady, but the entitlement as such cannot be thrown away by a court of law. The part of the order, which is set out as below, in M. Case No. 60/2022 is set aside.

“As per order in C. 524 of 2022 the petitioner has been allowed an interim maintenance of Rs.10,000/- p.m. in the said case.

The opposite party being an able bodied person is under legal obligation to provide maintenance to his legally married wife,

however, having regard to the facts and the circumstances of the case, where the petitioner is already receiving some amount in another parallel case, I am not inclined to allow the application for interim maintenance for the petitioner.

Hence, it is

ORDERED

That the application for interim maintenance dated 29.01.2022 is hereby rejected on contest but without costs.

Fix 29/8/23 for evidence.”

The learned Judicial Magistrate, 2nd Court, Barasat would freshly consider the issue of interim maintenance in the background of the observations made above.

With the aforesaid observations, the revisional application being CRR 2555 of 2023 is disposed of.

Pending connected application, if any, is consequently disposed of.

All concerned 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 with all requisite formalities.

(Tirthankar Ghosh, J.)