

**30.11.2023**  
**Serial no. 103**  
[G.S.D]

## **CRR 2838 of 2022**

**In the matter of : Sarajoni Das Samanta @ Sarojini**  
... .. Petitioner

**MR. JAYANTA NARAYAN CHATTERJEE**  
Ms. Moumita Pandit  
Mr. Supreme Naskar  
Ms. Jayashree Patra  
Ms. R. Banerjee  
Mr. P. Sinha

... Petitioner

Affidavit of service so filed be kept with the record.

In spite of affidavit of service, none appears on behalf of the private opposite party.

The revisional application was preferred against the judgment dated 20<sup>th</sup> May, 2022 passed by the Id. Addl. Dist. & Sessions Judge, Fast Track, 1<sup>st</sup> Court, Paschim Medinipur in Criminal Appeal No. 02 of 2021, wherein the Id. Appellate Court was pleased to modify the order of maintenance so granted in connection Misc. Case No. 47 of 2020. The operative part of the order so passed by the Id. Appellate Court is set out as follows:

*"Meanwhile, the appellant/husband is directed to pay the wife Sarojini Das Samanta who is the petitioner of the Misc. Case No. 47 of 2020 u/s. 12 of the Protection of Women From Domestic Violence Act, 2005 according to the order of the Id. Sessions Judge, dt. 05.02.2021 or 50% of the amount awarded by the Court below i.e. Rs.3000/-*

*per month for his wife and minor son by 10<sup>th</sup> of each month till the final disposal of the Misc Case. The appellant is further directed to pay the amount month by month otherwise the Court below is at liberty to attach his salary account."*

The records of the revisional application and the Id. Trial court reflect that the husband happens to be a High School Teacher.

Having regard to the quantum so earned by the husband, I am of the opinion that undue leniency has been shown by the Id. Appellate Court by reducing the quantum of interim maintenance so awarded.

Taking into account the totality of the circumstances, I find that the appellate court's order is lacking any merit for reducing the quantum in the background of the earnings of the husband.

Till disposal of the trial of Misc. Case No. 47 of 2020, the interim maintenance so awarded by the Id. JM, 6<sup>th</sup> Court, Sadar, Paschim Medinipur, would continue i.e. Rs. 4,000/- per month for the wife and Rs.2,000/- per month to the minor son, aggregating to a sum of Rs. 6,000/- per month.

However, the husband would be at liberty to pray for modification of such quantum of maintenance by taking out an appropriate application before the Id. Magistrate, if he is able to bring any evidence and rebut the contention regarding his employment and his earnings.

With the aforesaid observations, CRR 2838 of 2022 is disposed of.

Pending application, if any, is also disposed of.

Parties to act on a server copy of this order duly collected from the official website of the Hon'ble High Court at Calcutta.

Urgent Photostat certified copy of this order, if applied for, be supplied to the parties, subject to compliance with all requisite formalities.

**(Tirthankar Ghosh, J.)**