

10.08.2023
Serial no. 37
[G.S.D]

CRR 2859 of 2023

In the matter of : Rajkumar Ghosh

... .. Petitioner

Mr. Avinaba Patra

... For the Petitioner

The subject-matter of challenge relates to the order passed by the Learned CJM, Malda in Case No. 447M of 2021, wherein the Learned Court, by way of an interim maintenance, allowed Rs.4,000/- per month to the wife and Rs.3,000/- per month to the minor child.

Learned Advocate for the petitioner submits that the petitioner is a carpenter/labour and, as such, is able to earn around Rs.12,000/- in a month, while his expenditure in a month is around Rs.11,000/-.

Learned Advocate submits that it is practically impossible for the petitioner to pay such a huge quantum of interim maintenance.

I have considered the submissions of Learned Advocate appearing for the petitioner. The present order has been passed as an interim measure during the pendency of the main proceedings under Section 125 of the Code of Criminal Procedure.

The petitioner, in order to, rebut his case, has to place on evidence his monthly earning and expenditures.

The Learned Magistrate, if on the evidence adduced or rebutted by the husband/petitioner, is of the opinion that there are requirement of alteration of the quantum of maintenance, the Learned Trial Court, at the end of the trial, would be at liberty to come to such a finding based on the materials, which are produced before the Court by either of the parties.

The Learned Trial Court is directed to fix at least one date in a month and insist on the progress of the evidence of the case both at the instance of the prosecution as well as the O.P.

All steps be taken so that the trial is completed within a year from date.

With the above observations, CRR 2859 of 2023 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, 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.)