

14.08.2023
Serial no. 43
[G.S.D]

CRR 2943 of 2023

In the matter of : Debasish Mondal

... .. Petitioner

Mr. Saurav Chaudhuri

... For the Petitioner

The Learned Advocate for the petitioner, i.e. the husband herein, submits that he has been saddled with an enhanced amount of Rs. 15,000/- per month and in spite of best of his efforts, the husband could not file his Affidavit-of-assets and liabilities.

The records speak that opportunities were granted by the Learned JM, 2nd Court, Katwa, Purba Bardhaman and the case is pending since 2016.

I find from the records and the observations of the Learned Magistrate that the petitioner happens to be an employee of WBSEDCL and his gross salary is about Rs.67,000/- (approx).

The said observation of the Learned Magistrate is disputed by the Learned Advocate appearing for the petitioner/the husband and he prays for leave to file Affidavit-of-assets and liabilities.

The other observations of the Learned Magistrate in respect of his salary as well as the liabilities, which he is compulsorily required to address in regard to each and every month according to the petitioner should also be considered.

In view of the final order being passed by the Learned Judicial Magistrate, 2nd Court, Katwa, Purba Bardhaman, I am of the view that, at this stage, it will not be fit and proper to interfere with the order dated 31st May, 2023.

However, the petitioner is granted liberty to file an application under Section 127 of the Code of Criminal Procedure. The petitioner would also be at liberty to file the Affidavit-of-assets and liabilities.

Notice be issued to the wife applicant/O.P., who would also be entitled to rebut such contention, by way of an Affidavit-of-assets, if required to be tendered, by both the parties.

The Learned Magistrate, would, after consideration of the same, arrive at his conclusion, which may differ from the earlier order dated 31.5.2023.

However, the quantum as awarded by the order dated 31.5.2023 would continue till disposal of such application, after filing of the application at the instance of the husband/the petitioner.

All efforts be taken by the Learned Court and the parties to the litigation to conclude such application under Section 127 of the Cr.P.C. within a period of three months from the date of filing of the same.

With the aforesaid observations, CRR 2943 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.)