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25.08.2023
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C.R.R.3099 of 2023

In Re: An application under Section 401 read with Section 482 of the Code of Criminal Procedure, 1973;

Saktipada Maiti
Versus
Gita Middya and others

Mr. Mukteswar Maity.
...for the petitioner.

Petitioner submits that the order dated 15th October 2009 was passed by the learned Principal Judge, Family Court No.1, Calcutta in Misc. Case No.81 of 2008 when the petitioner was in service. The said order reflects that the petitioner was directed to pay Rs.6,000/- per month to the wife and Rs.4,000/- each per month to the two minor children. Learned advocate also submits that there has been change of circumstances, as the children have become adult and the petitioner in the meantime has retired from service.

The foundation of this order dated 15.10.2009 was on the basis of the salary of the petitioner. The circumstances having changed, the petitioner is entitled to have the quantum altered.

Be that as it may, this is for the first time the petitioner is divulging the issue before a revisional court. The provisions of Section 127 of the Code of Criminal Procedure statutorily provides the right to the petitioner. The petitioner is first supposed to exhaust such remedy and thereafter if he is aggrieved can invoke the jurisdiction of this Court. The same having not been done, I am of the opinion that the present revisional application is not

maintainable. However, I grant liberty to the petitioner to take out an application under Section 127 of the Code of Criminal Procedure. If such application is filed, learned jurisdictional court will consider the same in accordance with law and arrive at its opinion.

With the aforesaid observations, CRR 3099 of 2023 is disposed of.

Pending application, if any, is consequently disposed of.

All 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 of all requisite formalities.

(Tirthankar Ghosh, J.)