

14.09.2023

SL. 73

Court No. 34

Sourav/
Suvayan

C.R.R. 3456 of 2023

In re: An application Under Section 401 read with Section 482 of the Code of Criminal Procedure, 1973.

In the matter of: **Sri Soumyajit Sarkar**

... petitioner.

Mr. Tapan Datta Gupta

Mr. Parvej Anam

Ms. Rituparna Ghosh

Mr. Sourav Sardar

...for the petitioner.

Mr. S. G. Mukherji, Ld. PP

... for the State.

The revisional application has been preferred challenging the order dated 10.08.2023 passed by the learned Judicial Magistrate, 5th Court, Barrackpore, North 24 Parganas in connection with M. Case No. 569 of 2022 under Section 125 of the Code of Criminal Procedure.

Learned advocate for the petitioner is aggrieved by the fact that the application under Section 125 of the Code of Criminal Procedure was filed by suppression of material particulars regarding the number of cases which has been filed at the instance of the applicant/wife as also the amounts which she has received in divorce proceedings. Learned advocate for the petitioner is also aggrieved regarding the factum of the interim maintenance being granted from the date of filing of the application instead of the same being from the date of the order.

So far as the quantum of maintenance is concerned, I am of the opinion that the order passed by the learned

Magistrate is absolutely justified in view of the foundation of such amount being on the earnings of the husband/opposite party. So far as the issue relating to the starting point of awarding such maintenance, I do not find any special reason which could be assigned for not awarding the maintenance from the date of filing of the application by the wife as such the same is also not interfered with. However, if in course of the trial the petitioner is able to establish his case by way of which it is proved that on several occasions several lumpsum amounts were advanced to wife in any proceeding, in that case, the learned Trial Court at the time of final disposal of the case would take steps for adjustment of the said amount towards the final maintenance so awarded.

With the aforesaid observations, the present revisional application being **CRR 3456 of 2023** is disposed of.

Pending applications, if any, are disposed of.

All concerned parties are to act in terms of a copy of this order duly downloaded from the official website of this Court.

(Tirthankar Ghosh, J.)

