

28-11-2023
Subha
Item no. 359
Ct no.34

IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction

CRR 4351 of 2023

Lakshman Barai @ Laxman Barui
-versus-
Iti Barui

Mrs. Subhasree Patel
Ms. Saini Das

.....for the petitioner.

Petitioner is aggrieved by the factum of the quantum of Rs.10,000/- which has been awarded as maintenance. There are other grievances, which have been expressed, agitated and the petitioner feels aggrieved of.

The subject matter of the revisional application was with regard to the quantum whether it has been fixed at Rs.2,000/- or Rs.10,000/-. However, the learned trial court categorically pointed out that the amount is Rs.10,000/- and any alteration would affect the proceedings under Section 362 of the Code of Criminal Procedure.

Mrs. Patel, learned advocate for the petitioner submits that the quantum of Rs.10,000/- is beyond the capacity of the present petitioner and since the original order was passed ex parte, the petitioner did not have the opportunity to file his affidavit of assets and liabilities as also his capacity to pay. The quantum so decided is beyond the means of the present petitioner. As the order was passed ex parte and the application under Section 126 of the Code

of Criminal Procedure was dismissed, I am of the view that the petitioner's statutory right to file application under Section 127 of the Code of Criminal Procedure, remains. .

Accordingly, petitioner would be at liberty to place materials in respect of an application under Section 127 of the Code of Criminal Procedure. If the learned Magistrate is satisfied with materials so placed and the evidence so adduced in respect of such application, learned court would be at liberty to reconsider the quantum without being prejudiced by any observations made by this court.

With the aforesaid observations, the revisional application being CRR 4351 of 2023 is disposed of.

Pending applications, if any, are disposed of accordingly.

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]