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C.R.R.84 of 2023

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

Pranab Kumar Khan  
Versus  
Smt. Mousumi Khan

Mr. D.K. Adhikari  
Mr. Debdip Adhikari.  
...for the petitioner.

Mr. Arijit Dey.  
...for the opposite party.

Petitioner has challenged the judgment and order dated 21<sup>st</sup> December, 2022 passed in Criminal Revision No.204 of 2020 and Criminal Revision No.260 of 2020 by the learned Additional District and Sessions Judge, Paschim Medinipur arising out of M.R. Case No.336 of 2016 by the learned Judicial Magistrate, 6<sup>th</sup> Court, Paschim Medinipur.

The main thrust of contention of the learned advocate appearing for the petitioner is that the petitioner was already paying an amount under Section 24 of the Hindu Marriage Act and during the pendency of the said matrimonial suit, the opposite party preferred an application under Section 125 of the Code of Criminal Procedure. The learned Magistrate, 6<sup>th</sup> Court, Paschim Medinipur was pleased to award a sum of Rs.15,000/- per month in favour of the wife from the date of the order so passed in M.R. Case No.336 of 2016.

Learned advocate further submits that the amount has

been enhanced to a sum of Rs.25,000/- per month from the date of the application by the learned Sessions Judge in Criminal Revision No.204 of 2020. It has also been the contention of the petitioner that the petitioner has been paying both in the matrimonial suit as well as in the proceedings under Section 125 of Cr.P.C. in M.R. Case No.336 of 2016.

Learned advocate for the opposite party submits that the matrimonial suit has also been dismissed and the appeal is pending. According to the opposite party, the petitioner is a railway employee and is earning an amount of Rs.79,000/- per month and till date the petitioner has been paying cryptically, as such, a huge amount has accumulated as arrears.

To rebut such contention, learned advocate for the petitioner submits that the affidavit of assets and liabilities were not placed before the learned Magistrate and the learned Sessions Court while deciding the revisional application erroneously arrived at a conclusion of Rs.79,000/- per month to be the earning of the husband although from the affidavit it would be transparent that the wife/opposite party was getting a sum of Rs.10,000/- per month from her father.

Be that as it may, as whole of the trial was over and the learned trial court on appreciation of the materials came to a finding after assessment of the salary of the husband who happens to be a railway employee, I am of the view that no interference can be made in respect of the finding passed by the learned sessions court. However, if the petitioner has been paying both before the

learned civil court and the learned criminal court (i.e. the matrimonial suit as well as the proceedings under Section 125 of the Code of Criminal Procedure) then in that case, the petitioner is entitled to an adjustment and, as such, the amount which has been paid in the matrimonial suit should be adjusted from the amount which has been awarded by the learned Sessions Court in the revisional application being Criminal Revision No.204 of 2020. To that extent, if any execution case is pending, the petitioner will be entitled to relief. No further interference is called for.

With the aforesaid observations, CRR 84 of 2023 is disposed of.

Pending connected 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.)**