

05.03.2024

Item No.8  
Ct.No.34  
dc.

**IN THE HIGH COURT AT CALCUTTA  
CRIMINAL REVISIONAL JURISDICTION**

**C.R.R. 99 of 2024**

In the matter of : **Arpita Mondal**

... Petitioner.

Mrs. Karabi Roy

... For the Petitioner.

Mr. Usof Ali Dewan,  
Mr. Asif Ali Dewan

... For the Opposite Parties.

The petitioner has challenged the order dated 16.11.2023 passed by learned Additional Sessions Judge, Tehatta, Nadia in Criminal Appeal No. 7 of 2022 wherein the learned appellate court was pleased to set aside the order dated 15.11.2022 passed by learned Additional Chief Judicial Magistrate, Tehatta, Nadia in M.R. Case No. 146(iv) of 2016. The learned Magistrate by its order granted Rs.15000/- per month to the wife/petitioner for her maintenance, an amount of Rs.3000/- per month towards alternate accommodation/rented house and a sum of Rs.20000/- towards compensation. The learned appellate court proceeded under the premise that the husband was earning Rs.48,584/- per month and after deduction of the amount of Rs.18000/- that would amount to Rs.30,584/- per month. The husband/opposite party is employed with the Northern Railways. The salary receipt itself reflects that gross salary of the husband/opposite party is more than Rs.66000/-. The foundation on which the order was based, under such circumstances cannot lead to proper quantification.

The learned advocate appearing for the opposite parties resists such contention and also advances his argument that

the petitioner's mother was suffering from cancer for which Rs.19,00,000/- was borrowed and he had to liquidate the same by way of monthly instalment to the tune of Rs.30,000/- per month.

The loan in any form which has been taken by the husband will not have any effect and can be a subject-matter of consideration. The quantum which has been reduced by the learned appellate court cannot be considered to be a prudent approach as the amount which has been awarded by way of monetary relief is not commensurate with the earning of a husband of Rs.66000/- or more. It is also a subject-matter of consideration by a court deciding an issue relating to monetary relief or maintenance that the wife or the aggrieved party is entitled to lead a life which she was earlier leading while staying with her husband. There is no deviation from the said issue concerned irrespective of the fact whether a salaried person takes huge loan or gets his provident fund deducted in huge amount.

Having considered the totality of the circumstances, I am unable to agree with the findings of the learned appellate court in its judgement and order dated 16.11.2023 in Criminal Appeal No.7 of 2022. Accordingly, the said order is set aside. The order of the learned Additional Chief Judicial Magistrate, Tehatta, Nadia in M.R. Case No. 146(iv) of 2016 dated 15.11.2022 is hereby affirmed.

The husband/opposite party is directed to pay in consonance with the order passed by the learned Additional

Chief Judicial Magistrate, Tehatta, Nadia by its judgment and order dated 15.11.2022.

Accordingly, the revisional application being CRR 99 of 2024 is allowed.

Pending connected application, if any, is consequently disposed of.

All concerned 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 with all requisite formalities.

**(Tirthankar Ghosh, J.)**