

IN THE HIGH COURT AT CALCUTTA

(Criminal Revisional Jurisdiction)

APPELLATE SIDE

Present:

The Hon'ble Justice Shampa Dutt (Paul)

CRR 408 of 2020

Supriya Pramanik

Vs

Tapan Pramanik

For the Petitioner : Mr. Subir Kr. Bhattacharya.

For the Opposite Party : Mr. Nikhil Kumar Gupta,
Mr. Mosiar Rahaman.

Hearing concluded on : 07.03.2024

Judgment on : 28.03.2024

Shampa Dutt (Paul), J.:

1. The present revision has been preferred against an order passed by the Learned Additional Chief Judicial Magistrate, Diamond Harbour, dated 22nd October, 2019 in Miscellaneous Case No. 562/2017, CIS Number 479/2017 disposing of the application under Section 125 Cr.P.C. finally.
2. Though the Opposite Party was being represented, they failed to appear at the time of final hearing.
3. The parties were married in the year, 2004. It is alleged that she was driven out on 13.12.2017 (after 13 years of marriage). They have a daughter out of the said wedlock, who now resides with the petitioner/wife in her parent's house.
4. The marriage and the paternity of the child is admitted.
5. The income of the Opposite Party/husband is admitted to be Rs. 30,000/- per month, but the petitioner/wife states that it is Rs. 40,000/-
6. The Learned Magistrate accepting the income of the Opposite Party/husband to be Rs. 30,000/ per month allowed the application under Section 125 Cr.P.C., granted monthly maintenance of Rs. 3,000/- per month to the petitioner and 2,000/- per month to the daughter.

7. An exhaustive guidelines for deciding a case of maintenance has been laid down by the Supreme Court in ***Rajnesh vs. Neha & Anr., (2021) 2 SCC 324.***
8. The Opposite party/husband/father has admitted his income to the extent of Rs. 30,000/- per month.
9. There were no affidavits of assets filed in this case as it was disposed of in 2019.
10. **Thus in view of the guidelines as laid down by the Apex Court the amount of maintenance granted by the Magistrate is prima facie not proportionate to the admitted income and accordingly, the same is enhanced to Rs. 5,000/- each for wife & daughter , Total Rs 10,000/- per month.**
11. The order dated 22nd October, 2019 in Miscellaneous Case No. 562/2017, passed by the Learned Additional Chief Judicial Magistrate, Diamond Harbour, **is modified to the said extent.**
12. Rest of the order remains unchanged.
13. **The parties are at liberty to take recourse to appropriate provision of law in case of being aggrieved with the amount of maintenance granted and if there be any change of circumstances.**
14. **CRR 408 of 2020 is accordingly disposed of.**
15. The order passed by the Learned Additional Chief Judicial Magistrate, Diamond Harbour, dated 22nd October, 2019 in Miscellaneous Case

No. 562/2017, disposing of the application under Section 125 Cr.P.C. finally, is modified to the above extent.

- 16.** All connected applications, if any, stand disposed of.
- 17.** There will be no order as to costs.
- 18.** Interim order, if any, stands vacated.
- 19.** Copy of this judgment be sent to the learned Trial Court for necessary compliance.
- 20.** Urgent certified website copy of this judgment, if applied for, be supplied expeditiously after complying with all, necessary legal formalities.

(Shampa Dutt (Paul), J.)