

15-04-2024
Subha
Item no.37
Ct no.34

IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction

CRR 890 of 2024

Swapan Das
-versus-
Mira Das

Mr. Pawan Kumar Gupta
Ms. Sofia Nesar
Ms. Santanu Sett
Mr. Sourav Mukherjee
....for the petitioner.

Mr. Saswata Bhattacharya
...for the opposite party/wife.

Petitioner has challenged the judgement and order dated 18-12-2023 passed by the learned Sessions Judge, Hooghly in Criminal Motion No. 89 of 2023 thereby affirming the ex parte judgement and order dated 28-06-2023 passed by the learned Judicial Magistrate, 5th court, Sadar, Hooghly in Misc. Case No.159 of 2019.

The grievance of the petitioner is two folds. Firstly, the amount has been enhanced from Rs.700/- per month to Rs.3500/- per month and secondly the order was passed ex parte.

Learned advocate for the petitioner has drawn the attention of the court to an affidavit which was affirmed and filed along with documents to the effect that service was effected upon the opposite party which was not received. The maintenance amount, which was previously paid, was of the year 1997, more than 20 years have passed. Accordingly, the quantum which has been awarded of

Rs.3500/- per month cannot be in any manner said to be exorbitant.

However, if the petitioner submits he is prejudiced, he would be at liberty to prefer an application under Section 127 CrPC. The learned Magistrate would consider the same in accordance with law particularly with regard to the fact that whether service was effected upon him or not and dispose of the same after issuing notice to the opposite party preferably within a period of three months from the date of appearance of the opposite party.

No interference is made in respect of the quantum which has been enhanced and the petitioner would go on paying the same until and unless the learned Magistrate thinks it fit and proper to be interfered with.

With the aforesaid observations, the revisional application being CRR 890 of 2024 is disposed of.

Pending applications, if any, are consequently 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]

