

06.02.2024

Item No.154

Ct.No.34

dc.

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

C.R.R. 909 of 2023

In the matter of : **Smt. Kakali Mondal (Giri)** ... Petitioner.

Mr. Gourab Ghosh ... For the Petitioner.

Mr. Subrata Bhattacharjya,
Mr. Indranuj Dutta,
Mr. Asmanur Quail,
Ms. Benazir Sk ... For the Opposite Party No.1.

Records of the revisional application reflects that learned Judicial Magistrate, 1st Court, Contai, Purba Medinipur in Misc. Case No. 10 of 2022 by his order dated 31.01.2023 was pleased to award interim maintenance of Rs.5000/- per month to the wife.

I find from the said order so passed by the learned Magistrate that the husband happens to be a school teacher and since no documents were available before the court, the contentions advanced by the wife in respect of the earning of the husband was accepted as Rs.45000/- per month by way of salary/service, Rs.2000/- per month from land and Rs.10000/- per month by way of providing tuition.

The wife/petitioner was aggrieved by the quantum of Rs.5000/- and approached this Court.

Learned advocate appearing for the husband/opposite party no.1 opposes the contentions so advanced on behalf of the petitioner/wife regarding the foundation and its observations made by the learned Judicial Magistrate while disposing of the application for interim maintenance. However, the learned advocate admits the fact that the husband/opposite party no.1 is a school teacher.

Having regard to the pay scale of a school teacher, I am of the view that at least 1/3rd of the amount of the emoluments should be paid to the wife by way of maintenance. Since the present case is for interim maintenance, this Court is not strictly entering into the zone of the earning of the husband including his salary or other sources. However, it is opined that the quantum of interim maintenance so awarded by the learned Magistrate is not commensurate with the salary or other sources of income of the husband. Accordingly, this Court directs that the interim maintenance so awarded by the learned Judicial Magistrate, 1st Court, Contai, Purba Medinipur by his order dated 31.01.2023 be set aside and the said interim maintenance would be Rs.10,000/- (Rupees Ten Thousand) per month and is to be paid in the mode and manner as decided by the learned Magistrate.

The revisional application being CRR 909 of 2023 is, thus, 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.)