

03.04.2024
Serial no. 2
[G.S.D]

CRR 1161 of 2023

In the matter of : Sagar Sarkar

... .. Petitioner

Mr. Jayanta Narayan Chatterjee
Mr. Supreem Naskar
Ms. Jayashree patra
Ms. Sreeparna Ghosh
Ms. Ritushree Banerjee

... for the petitioner

Affidavit of service so filed be kept with the record.

The revisional application has been challenged against the Judgment and Order dated 23.12.2022 passed by the Id. Addl. Sessions Judge, 1st Court, Katwa, Purba Bardhaman in connection with Criminal Motion No. 217 of 2020, wherein the Id. Revisional Court was pleased to affirm the order dated 20th November, 2020 passed in connection with Misc. Case No. 174 of 2019, wherein the Id. JM, 4th Court, Katwa, Purba Bardhaman was pleased to award the interim maintenance to the tune of Rs.4,000/- per month to the minor child and Rs. 10,000/- per month to the wife.

The said order which has been passed by the Id. Magistrate was an interim measure during pendency of the main revisional application. The foundation of such order was based on the fact that the husband/petitioner herein is a B. Tech Software Engineer.

The present petitioner being aggrieved has already challenged the order of the Revisional Court being the Id. Addl. Sessions Judge, 1st Court, Katwa, Purba Bardhaman.

I have assessed the reasons of both the courts below and I have not been able to satisfy myself for interference in respect of the reasons so assigned by the presiding courts.

Mr. Chatterjee, Id. Advocate, appearing for the petitioner has challenged judgment dt. 23.12.2022 on twofold grounds: firstly, whether such quantum can be paid from the date of the order and, secondly, the quantum which has been awarded, as a plea has been taken that post covid the petitioner is unemployed.

Additionally, it has been contended that a copy of the main revisional application under section 125 of the Cr.P.C. was received almost one year after the same was filed which was during the covid pandemic.

Be that as it may, I find that the Id. Magistrate while arriving at his conclusion for awarding the interim maintenance relied upon the qualifications of the husband as well as the earning which, prima facie, appear to me to be correct.

I have considered the submissions of the Id. Advocate. However, I do not find any special reason to be assigned for not allowing the maintenance awarded from the date of filing of the application.

The present maintenance which has been awarded is by way of an interim measure during pendency of the main revisional application. Evidence is required to be adduced by both the parties.

Accordingly, after the evidence is adduced, if the Id. Magistrate finds that there is any scope for alternation of the quantum of maintenance based on the earnings and liabilities of the husband as also the expenditure and price index, the Id. Magistrate would independently apply his mind to the same without being influenced by any of the observations which has been made while disposing of the present revisional application.

With the aforesaid observations, CRR 1161 of 2023 is disposed of.

Pending application, if any, is also disposed of.

Parties to act on a server copy of this order duly collected from the official website of the Hon'ble High Court, Calcutta.

Urgent Photostat certified copy of this order, if applied for, be supplied to the parties, subject to compliance with all requisite formalities.

(Tirthankar Ghosh, J.)