

18.04.2024
Sl.No. 25
Ct. 32
Amalranjan

In The High Court At Calcutta
Criminal Revisional Jurisdiction
Appellate Side

CRR 1792 of 2018

Smt. Putul Maity
Vs.
Biman Maity

Nobody appears on behalf of either of the parties on call. Even on earlier occasion no one represented the petitioner, no accommodation sought for.

This case pertains to the year 2018.

The instant application is taken up for disposal on merit considering the nature of prayer and to avoid further delay.

The instant revisional application filed by the petitioner/wife against the impugned order dated 24.10.2017 passed by the learned Judicial Magistrate, 1st Class, Kakdwip, South 24 Parganas in connection with a proceeding under section 127 of the Criminal Procedure Code registered as Misc. case no. 45 of 2015 arising out of maintenance case no. M-53 of 2009. The actual purpose of the revisional application is to enhance the maintenance allowance as granted by the learned Magistrate earlier to the wife and her two minor children. It is the contention of the petitioner that the learned Magistrate has reduced the maintenance amount without any justification.

It is the admitted fact that the maintenance case no. 53 of 2009 filed before the learned Judicial Magistrate, 1st Class, Kakdwip under section 125 of the Criminal Procedure Code allowed by awarding the maintenance allowance to the tune of Rs. 1200/- per month to the petitioner/wife and a sum of Rs. 700/- per month each for her minor son and minor daughter respectively. Subsequently, she filed an application under section 127 of the Criminal Procedure Code praying for enhancement of the maintenance allowance to the tune of Rs. 3000/- per month for herself and Rs. 2500/- each for her two minor children.

However, the learned court below after hearing the parties finally awarded a sum of Rs. 1000/- per month for the petitioner and Rs. 1000/- each per month for her two minor children and further directed to pay the said maintenance allowance within 7th day of each succeeding calendar month when it falls due.

Being aggrieved and dissatisfied with the said impugned order the petitioner/wife filed this revisional application praying for setting aside the said order dated 24.10.2017.

On perusal of the application and materials available in the record and the impugned order dated 24.10.2017 passed by the learned Judicial Magistrate, this court finds that the opposite party/husband is a day labourer, who also possessed a job card and is earning was Rs. 1500/- per month, though he is an abled bodied person. It is the settled

principles of law that the husband is bounded duty and obligation to maintain his wife and children, who are unable to maintain herself as well as her minor two children. But in the instant case, it is proved that the petitioner does private tuition and also does tailoring and used to earn Rs. 7000/- per month whereas the opposite party/husband is unable to earn more money.

Considering all the aspects and the situation of both sides, learned court below finally allowed a sum of Rs. 1000/- per month to the wife and Rs. 1000/- each for her two minor children, which appears genuine and reasonable.

Under the above facts and circumstances, the instant revisional application is devoid of merit.

Accordingly the revisional application being **CRR 1792 of 2018** is thus dismissed without any order as to costs.

Interim order, if any, stands vacated.

Let the order be communicated to the Ld. Court below for information.

Liberty is granted to all parties to act in terms of the copy of this order downloaded from the official website of this court.

Urgent Photostat certified copy of this order, if applied for, be supplied to the parties taking all legal formalities.

(Ajay Kumar Gupta, J.)