

03.01.2024
Serial no. 3
[G.S.D]

CRR 4948 of 2023

In the matter of : Subrata Mondal

... ... Petitioner

Mr. A. K. Singh
Mr. S. Bandyopadhyay
MR. P. DAS
MR. B. SOME

... PETITIONER

The subject-matter of challenge before this court is the judgment and order dated 7.10.2023 passed by the Id. Addl. Sessions Judge, 7th Court, Alipore, 24 Parganas in Criminal Motion No. 270 of 2022.

The original case being Misc. Case No. ACM - 659 of 2021 under section 125 of the Cr.P.C. was filed by the father namely, Kartik Mondal against his son Subrata Mondal. The said Subrata Mondal challenged the order passed by the Id. JM, 4th Court at Alipore in Criminal Motion No. 270 of 2022.

The subject-matter of grievance is the maintenance awarded by the Id. JM to the extent of Rs.4,000/- per month. The main contention of the petitioner is that he has an earning around Rs.10,661/- and his expenditure is more than Rs.16,000/-. The same was placed by way of Affidavit of assets and liabilities. While the father did not place any document(s) of maintenance.

According to the petitioner, erroneously the Id. JM awarded the maintenance of Rs.4,000/- per month in favour of his father and the Id. Addl. Sessions Judge, 7th Court, Alipore affirmed the same.

Ld. advocate for the petitioner contends that presently the mother of the petitioner who was abandoned by her husband/the father of the petitioner is also a dependant along with his wife and son and, as such, it is very difficult for the petitioner who has an earning of Rs.10,661/- to pay the sum of Rs.4,000/- out of the same income as maintenance to his father.

I have perused the judgment and order passed by the Id. Addl. Sessions Judge and I find that before the Id. Sessions Court, the only dependants who were shown were the wife and the minor son. The introduction of the mother as a dependant is a changed circumstance, which was not in the knowledge/evidence of the Id. Trial Court.

Be that as it may, the subject-matter before this court presently is an award relating to interim maintenance of Rs.4,000/-. The trial of the case is yet to commence.

In view of the contentions so advanced by the Id. advocate appearing on behalf of the petitioner, I direct that in case the petitioner is able to adduce the evidence to show that there are three dependents, the Id. trial court will not stick to the present amount of maintenance and would be at

liberty to alter the same considering the totality of the circumstances at the end of the trial.

With the aforesaid observations, CRR 4948 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 at 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.)