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02.01.2025  
GSD

**Calcutta High Court  
In The Circuit Bench at Jalpaiguri  
Appellate Side**

**CRR 110 of 2024**

In the matter of: **Smt. Swapna Pandit Bhattacharjee**

.... Petitioner(s)

Mr. Arijit Ghosh

... for the petitioner(s)

Mr. Aditi Shankar Chakraborty, Ld. APP

Mr. Aniruddha Biswas

... for the State

Mr. Avrojoyti Das

Mr. Rajdeep Das

... for the respondent no.2

I have considered the Judgment and Order passed by the learned Judicial Magistrate, 1<sup>st</sup> Court, Alipurduar, wherein, the admitted position is that the husband/o.p. is receiving pension of Rs.43,000/- per month.

The learned Magistrate has taken into account the different conditions, particularly, regarding the o.p. to maintain his mother and also for repayment of the loan and, further, taking into account the same, as in the present proceedings being MR Case No. 170 of 2018, granted maintenance of Rs. 6,000/- per month under Section 125 of the Cr.P.C.

In view of the admitted position being Rs.43,000/-which is received by the o.p. by way of pension, the Learned Magistrate should have considered the settled proposition of law for awarding maintenance which is commensurate with the financial capacity of the husband/o.p.

In the light of the aforesaid consideration, the quantum of maintenance which the learned Magistrate ought to have granted should be Rs.13,000/- per month, which is almost 1/3 of the amount of the pension earned by the husband/o.p.

Accordingly, the part of the order granting Rs.6,000/- as maintenance per month to the present petitioner is set aside. The o.p./husband will pay a sum of Rs.13,000/- per month in the mode and manner as has been settled by the learned Judicial Magistrate, 1<sup>st</sup> Court, Alipurduar with a condition that the amount of Rs.13,000/- would be effective from 30.12.2023 i.e., the date on which the final order was passed by the learned Judicial Magistrate (this is because of the fact that the o.p./husband have been paying interim maintenance throughout during the pendency of the proceedings from the year 2018).

With the aforesaid observations, CRR 110 of 2024 is **Allowed**.

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

**(Tirthankar Ghosh, J.)**