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C.R.R.2122 of 2021

In Re: An application under Article 227 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973;

Yeasin Ali
Versus
The State of West Bengal and another

Mr. Subrata Bhattacharjya.
...for the petitioner.

Mr. Sandip Ghosh,
Mr. Partha Sarkar.
...for the opposite party no.2/wife .

Ms. Manisha Sharma.
...for the State.

Learned advocate appearing for the opposite party no.2/wife draws the attention of this Court to the relevant part of the judgment delivered by the learned sessions court on 26th July, 2021 in Criminal Motion No.7 of 2018 wherein it has been quoted that the documents which have been filed by the wife relates to pad used by the O.P, Sk Yasin Ali and also advertisement given by the medical unit, no document was produced to counter such argument and only a photocopy of the certificate issued by the Pradhan, Bijur-II Panchayat was produced. The consistent plea of the opposite party was that the husband is a dentist while the husband took up the plea that he was a farmer.

At the interim stage, the court is bound to balance between the contentions advanced by both the parties and there is nothing wrong in the finding of the learned sessions court when it

awarded the amount of maintenance relying upon the documents so placed before him.

It has also been submitted by the learned advocate appearing for the opposite party no.2/wife that the minor child is presently attending school and there are extra expenses to be borne.

Learned advocate for the petitioner, on the other hand, challenges the intrinsic value of the document which was submitted before the learned court as also the contended that the wife was earning around Rs.10,000/-per month belonging to a rich family.

Be that as it may, the main proceedings are still pending before the learned trial court. Considering the stage of the case, I am of the opinion that the interim order earlier granted is modified to the extent that a sum of Rs.4,000/- per month be awarded to the opposite party/wife and a sum of Rs.8,000/- per month be awarded to the minor child, aggregating to a sum of Rs.12,000/- per month.

It has been complained by the petitioner that the applicant/opposite party in the trial court is not participating in the evidence.

In view of such contentions, I direct that the learned trial court would fix at least one date in a month so that the trial of the case can be taken to its logical conclusion and the application under Section 125 of the Code of Criminal Procedure be finally disposed of. Needless to state that the quantum so fixed above is open for modification and variation on the basis of the evidence which will finally surface in course of the hearing of the case and the learned trial court should not be influenced by any observations

made by this Court.

With the aforesaid observations, CRR 2122 of 2021 is disposed of.

Pending applications, if any, are consequently disposed of.

All 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 of all requisite formalities.

(Tirthankar Ghosh, J.)