

HIGH COURT OF MEGHALAYA
AT SHILLONG

Crl. Petn. No. 99 of 2023

Date of Order: 27.02.2024

Smti. Philis Syrti

Vs.

Shri Klurstar Kharmyndai.

Coram:

Hon'ble Mr. Justice B. Bhattacharjee, Judge

Appearance:

For the Petitioner/Appellant(s) : Mr. S. K. Roy, Adv.

For the Respondent(s) : Ms. P. Chettri, Adv.

JUDGMENT AND ORDER

ORAL:-

Heard Mr. S.K.Roy, learned counsel appearing for the petitioner and also Ms. P. Chettri, learned counsel appearing for the sole respondent.

1. This application under Section 482 Cr.P.C has been filed challenging the impugned order dated 04-03-2022 passed in Misc. Criminal Appeal No. 1 of 2022 by the Judge, District Council Court, Khasi Hills, Shillong whereby the operation of the orders dated 22-07-2021 and 14-01-2021 passed by the learned Trial Court in M.C.R. No. 46 of 2021 directing the respondent herein to pay a monthly maintenance allowance of Rs.8,000/- per month to the petitioner and two minor children was stayed.

2. Mr. S. K. Roy, learned counsel for the petitioner submits that the Appellate Court has erred in law in passing the impugned order dated 04-03-2022 inasmuch as it has not recorded any reason as to why the orders passed by

the Trial Court have been stayed. He further submits that the respondent had also not made any prayer for interim stay of the orders of the Trial Court before the Appellate Court.

3. Ms. P. Chettri, learned counsel for the respondent, on the other hand, contends that the petitioner is not entitled to receive any interim maintenance as the respondent at no point of time neglected to maintain the petitioner and the two minor children. It is further submitted by the learned counsel that the petitioner is also not diligent in pursuing her claim for maintenance against the respondent and she has not appeared before the Appellate Court to contest the appeal filed against her.

4. The materials on record of the case reveal that on the basis of an application for grant of maintenance under Section 125 Cr.P.C filed by the petitioner against the respondent, the learned Magistrate First Class, Subordinate District Council Court (SDCC), vide order dated 22-07-2021 had directed for payment of interim maintenance of Rs. 10,000/- per month to the petitioner and two minor children by the respondent. The said order stood modified vide another order of the same Court dated 14-01-2022 passed after the filing of the show-cause by the respondent and the amount of interim maintenance was modified from Rs.10,000/- to Rs.8,000/- per month. Both the aforesaid orders dated 27-07-2021 and 14-01-2022 were challenged before the Judge, District Council Court, Khasi Hills, Shillong by the respondent herein in Misc. Criminal Appeal No. 1 of 2022 and the learned Judge, District Council Court, by the impugned order dated 04-03-2022 stayed both the aforesaid orders passed by the Court of Magistrate First Class, SDCC.

5. A bare perusal of the impugned order projects that the same was passed mechanically without recording any reason as to why the orders dated 27-07-2021 and 14-01-2022 passed by the Magistrate First Class, SDCC, in M.C.R.

No.46 of 2021 are stayed. There is also nothing on record to show that the respondent had prayed for passing of any interim order in the appeal. It is well settled that the Appellate Court cannot blindly pass an order of stay in a maintenance matter without recording any reason or justification.

6. In view of the above, the impugned order dated 04-03-2021 passed in Misc. Criminal Appeal No.1 of 2022 by the Judge, SDCC is hereby set aside and quashed and the orders dated 27-07-2021 and 14-01-2022 of the Magistrate First Class, SDCC, in M.C.R. No. 46 of 2021 are restored. The respondent shall now pay the interim maintenance allowance which was ordered to be paid by the learned Court of Magistrate to the petitioner forthwith, including the arrears thereof.

7. It has been submitted by the parties that the Misc. Criminal Appeal No. 1 of 2022 is pending for disposal before the Court of the Judge, SDCC for quite some times. The learned counsel for the petitioner submits that the matter is fixed on 27-03-2024 for final hearing. Considering the situation, it is directed that the Judge, District Council Court, Khasi Hills, Shillong shall now take up the Misc. Criminal Appeal No.1 of 2022 for final disposal without any further delay and decide the same preferably within a period of two months from today. Needless to say that the continuation of payment of the interim maintenance will be subject to the outcome of the appeal to be decided by the Judge, District Council Court.

8. With the aforesaid directions, this Criminal Petition stands allowed.

Judge

Meghalaya
27.02.2024
"Biswarup PS"