

10.03.2021
Item no.11
Ct. No.30
AKG

C.R.R. 26 of 2020

**Sujit Chowdhury
Vs.
Madhumita Chowdhury**

Mr. Anand Keshri ,
Mr. Sekhar Mukherjee,
Mr. Gaurav Kumar

.....for the Petitioner.

Affidavit of service be kept with the record.

In spite of service of notice, the opposite party has not turned up to contest the instant criminal revision.

The instant revision is directed against an order dated 5th December, 2019 passed by the learned Additional Sessions Judge, Fast Track Court, 4th Court at Alipore in Criminal Revision No. 118 of 2019 with Criminal Motion No. 105 of 2019.

Suffice it to mention that in a proceeding under Section 125 of the Code of Criminal Procedure filed by the opposite party against the petitioner which was registered as ACM No. 865 of 2016, the learned Judicial Magistrate, 4th Court at Alipore vide order dated 18th February, 2019 directed payment of monthly interim maintenance to the opposite party and the minor child of the parties @ Rs. 7,000/- and Rs. 3,000/- (total Rs. 10,000/-).

The petitioner challenged the said order in Criminal Motion No. 118 of 20019. The said motion was disposed of by the learned

Additional Sessions Judge, Fast Track Court, 4th Court at Alipore vide order dated 6th December, 2019. By passing the said order, the learned Additional Sessions Judge enhanced the quantum of maintenance to be paid by the petitioner for their minor child from Rs. 3,000/- to Rs. 5,000/-.

The petitioner being aggrieved has preferred the instant criminal revision.

The petitioner has filed series of documents as annexure with his application. It is needless to say that this court is not in a position to consider the veracity and authenticity of those documents when the documents being brought in evidence. An order of interim maintenance was passed on the basis of submission made by the opposite party on affidavit. Therefore, the affidavits filed by the parties praying for interim maintenance and refuting the same are the only documents which can be considered to determine the legality, propriety and validity of the impugned order.

It is submitted by the learned advocate for the petitioner that he runs Rs. 39,000/- per month. If he is directed to pay a sum of Rs. 8,000/- towards maintenance of his wife and minor daughter, the same should be adequate and proper. In view of the fact that the petitioner has also some obligations to look after her old mother and maintain herself.

Having heard the learned advocate for the petitioner and on perusal of the materials on record, I direct the petitioner to go on paying interim maintenance to the opposite party @ Rs. 10,000/-

per month till the disposal of the application under Section 125 of the Code of Criminal Procedure.

The learned Judicial Magistrate is directed to dispose of the application under Section 125 of the Code of Criminal Procedure if the affidavits are exchanged by and between the parties on the basis of the evidence adduced by them expeditiously and preferably within a period of six months from the date of communication of the order. During hearing of the application under Section 125 of the Code of Criminal Procedure, the parties shall be given opportunity to prove necessary documents in support of their claim.

The instant Criminal Revision is accordingly disposed of.

Let a copy of this order be sent to the learned court below for information and compliance.

(Bibek Chaudhuri, J.)