

AD. 5.
July 26, 2021.
MNS.

C. O. No. 820 of 2021
(**Via video conference**)

Sri Avishek @ Abhishek Ghosh
Vs.
Smt. Susmita Ghosh (Murdunna)

Mr. Malay Bhattacharyya,

Mr. Subhrajyoti Ghosh

... for the petitioner.

Affidavit-of-service filed in Court today be
taken on record.

Despite service, none appears on behalf of
the opposite party.

Learned counsel for the petitioner-husband
is justified in questioning the validity of the
impugned order, granting alimony and litigation
costs to the opposite party-wife, payable by the
petitioner, in so far as, despite specific allegations
having been made by the husband as regards the
wife having sufficient income to maintain herself,
no affidavits-of-asset and/or property, as
mandated by the Supreme Court in ***Rajnesh Vs.
Neha & Anothers reported at (2021) 2 SCC
324***, were directed to be filed.

In view of the existing dispute between the parties as regards their respective incomes and the ratio laid down in the aforementioned judgement of the Supreme Court, it is now incumbent on the matrimonial courts to grant an opportunity to the parties to file their respective affidavits-of-income and asset. In the absence of any such direction and in the teeth of the husband's counter allegations, the court below acted patently without jurisdiction in granting alimony and litigation costs.

Accordingly, C. O. No. 820 of 2021 is allowed, thereby setting aside the order dated November 14, 2019 passed by the Additional District and Sessions Judge, Raghunathpur, District- Purulia in Matrimonial Suit No. 68 of 2018 and directing the said court to re-hear the alimony application filed by the opposite party, as expeditiously as possible, positively within two months from the date of communication of this order to the court below, upon giving opportunity of filing of affidavits-of-income and asset to both parties, as well as other documentary evidence, if required, in support of their respective incomes.

There will be no order as to costs.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)