

IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction

Before:
The Hon'ble Mr. Justice Jay Sengupta

C.R.R. 1386 of 2014
CRAN 1 of 2019 (Old No. CRAN 1621 of 2019)

Prabir Dhibar
Vs.
The State of West Bengal & Anr.

For the Petitioner	:	Mr. Soumik Ganguli, Mr. Sourat Nandy.
For the Opposite Party	:	Mr. Sharanya Chatterjee.
Heard on	:	01.03.2021
Judgement on	:	01.03.2021

Jay Sengupta, J. :

This is an application challenging a judgment and order dated 21st January, 2014 passed by the learned Additional Sessions Judge, Bankura in Criminal Revision No.44 of 2012, thereby affirming the order dated 22.12.2011 passed by the learned Judicial Magistrate, 7th Court, Bankura in Misc. Case No.51 of 2010/TR No.30 of 2010 under Section 125 of the Code.

By a judgment and order dated 22.12.2011 passed in Misc. Case No. 51 of 2010/TR No.30 of 2010, the learned Trial Court directed the petitioner/husband to pay maintenance allowance at the rate of Rs.3000/- (Rupees

Three Thousand only) per month to the wife/opposite party no.2. Being aggrieved, the petitioner preferred a revisional application being Criminal Revision No.44 of 2012 before the learned Sessions Court. After hearing the parties, the learned revisional Court was pleased to dismiss the revisional application and affirm the order passed by the learned Trial Court. A second revisional application was filed by the petitioner before this Court. By an order dated 25.04.2014, the matter was directed to come up for hearing under the heading 'Contested Application' and an interim order was granted directing the petitioner to pay a sum of Rs.1500/- (Rupees Fifteen Hundred only) to the wife/opposite party. The wife/opposite party no.2 filed an application for vacating of the interim order passed earlier.

Learned Counsel appearing on behalf of the petitioner submits as follows. The petitioner is a day labourer working in a Sponge Iron factory. He was earning of about Rs.3000/- (Rupees Three Thousand only) per month as per his written objection filed in 2010. It would not be possible for the petitioner to pay such high sum as awarded by the learned Trial Court as maintenance allowance. The wife deserted the husband on her own volition. Despite the petitioner's efforts, the wife did not come back. The petitioner has been regularly paying maintenance allowance to the wife.

Learned Counsel appearing on behalf of the opposite party/wife submits as follows. It is the case of the opposite party no.2 that as on 2010, the petitioner was earning Rs.10,000/- (Rupees Ten Thousand only) as a day labourer in a factory. The petitioner was also earning another sum of Rs.10,000/- (Rupees Ten Thousand only) from his cable TV business. The wife was subjected to mental and physical torture and thereafter driven out from the matrimonial home. She has no independent income of her own. Even after the sum of maintenance was scaled down to Rs.1500/- (Rupees Fifteen Hundred only) by this Court as an

interim measure, the petitioner did not pay such sum to the wife as maintenance allowance.

I have heard the submissions of the learned Counsels appearing on behalf of the parties and have perused the revision petition and the vacating application filed by the opposite party no.2.

It appears that the marriage has not been disputed.

The petitioner has failed to disclose any document regarding his actual income. However, he was an able-bodied man and had admitted earning at least Rs.3000/- (Rupees Three Thousand only) per month from his job as a day labourer in a Sponge Iron factory in 2010.

In these times of high price indices, Rs.3000/- (Rupees Three Thousand only) per month is possibly the least that can be awarded as maintenance allowance to a married woman under Section 125 of the Code. It amounts only to about Rupees Hundred per day.

In view of the above and considering the facts that the marriage is admitted and the petitioner is an able-bodied man doing some job or, at least, capable of doing some job, I do not think a sum less than Rs.3000/- (Rupees Three Thousand only) per month should be awarded as maintenance allowance in favour of the wife.

The learned Sessions Judge had quite rightly affirmed the reasoned order that was passed by the learned original Court.

In view of the above, I do not find any merit in this application.

Accordingly, the revisional application is dismissed and the connected application also stands disposed of.

There shall, however, be no order as to costs.

Urgent photostat certified copy of this order may be supplied to the parties expeditiously, if applied for.

(Jay Sengupta, J.)

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