

AD. 1.
July 8, 2021.
MNS.

C. O. No. 3625 of 2019
(**Via video conference**)

Sri Sankar Bhattacharya @ Sankar
Bhattacharaya
Vs.
Manashi Bhattacharya

Mr. Sabyasachi Mukherjee,
Ms. Namrata Mukherjee Das,
Mr. Bibek Dey

... for the petitioner.

Mr. Chittapriya Ghosh

...for the opposite party.

Learned counsel for the petitioner contends that, despite having producing the petitioner's salary slips in the court below, the trial court erroneously arrived at the conclusion that no documents were produced by the petitioner to substantiate his income.

It is further submitted that the salary slips produced in the court below, as reflected from the copy of the list of documents filed in the court below, show that the salary of the petitioner has been around Rs.7,000/- (Rupees seven thousand) only per month.

Learned counsel therefore submits that the amount of Rs.4,000/- (Rupees four thousand)

only per month, granted as alimony, as well as the litigation costs of Rs.8,000/- (Rupees eight thousand) only were exorbitant.

Learned counsel appearing for the opposite party-wife, on the other hand, contends specifically that one has to go *prima facie* by the factual findings recorded by the court below. In the event there has been factual error in such finding, the trial court ought to have been approached for correction of the same.

In the present circumstances, it appears *prima facie* that the documents relating to the salary of the husband were produced in the court below, but were not considered by the court. However, in order to avoid usurping the jurisdiction of the trial court, thereby depriving the parties of a forum for challenge, the alimony application is remanded to the trial court to be disposed of afresh, upon giving fresh opportunity to both sides to produce their respective documents, if any, if they want to rely on such documents. The trial court is requested to dispose of the alimony application afresh within two months from the date of communication of this order to the court below.

The petitioner contends that the amount directed by this Court, that is, Rs.8,000/- (Rupees eight thousand) only, which is the litigation cost granted by the court below, has been paid to the wife.

However, for the time being, to meet the urgent financial needs and exigencies of the opposite party-wife arising in the meantime, the husband shall pay a further sum of Rs.15,000/- (Rupees fifteen thousand) only to the opposite party on an *ad hoc* basis within a fortnight from date.

It is made clear that such payment shall be without any prejudice to the rights and contentions of the parties in the alimony application and/or the suit and shall be adjusted, along with the amount of Rs. 8,000/- paid earlier pursuant to an order of this court, with the amount of alimony and litigation costs, if granted by the trial court upon disposal of the alimony application.

The petitioner shall file a receipt and/or other proof of the payment of the amount of Rs.15,000/- (Rupees fifteen thousand) only to the opposite party-wife, as directed in this order,

before the trial court when the application for alimony is taken up for hearing next.

In the event such document is not produced, the trial court will be at liberty to direct further payments to be made to the opposite party on an *ad hoc* basis.

The revisional application is thus allowed, thereby setting aside the impugned order and remanding the matter to the court below for hearing the alimony application afresh in the light of the above observations.

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.)