

23.03.2021
Ct. 30
D/L 17
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C.R.R. 3641 of 2019
(Via Video Conference)

Renu Tiwari
Vs-
Anand Kumar Tiwari & Ors.

Mr. Dev Kumar Sharma,

... for the petitioner

On perusal of the affidavit service lying with the record, it is ascertained that the notice of the instant proceeding was served upon the opposite parties but they have not turned up to contest the instant criminal revision. Therefore, the instant revision is taken for hearing ex parte.

The wife of the opposite party No. 1 has filed the instant criminal revision challenging illegality, validity and impropriety of the order dated 30th September, 2019 passed by the learned Sessions Judge, Howrah in Misc. Appeal No. 129 of 2018 affirming the judgement and order dated October 4, 2018 passed by the learned Judicial Magistrate (First Class), First Court at Howrah in Misc. Case No. 49 of 2018 under Section 12 read with Section 23 of the Protection of Women from Domestic Violence Act, 2005 (hereinafter described as 'the said Act').

The learned Magistrate directed the respondent No. 1 to pay Rs. 2,000/- each per month for the maintenance of the aggrieved person and her minor daughter from the date of filing of the case till the disposal of the same under Section 23 of the said Act.

In appeal, the learned Sessions Judge affirmed the judgement and order of the learned Judicial Magistrate (First Class) First Court at Howrah.

The petitioner has challenged the order passed by the learned Appellate Court below on the following grounds:-

- (1) The marriage of the parties, existence of domestic relationship and domestic violence are not disputed by the opposite party No. 1 herein.
- (2) It is specifically averred by the petitioner in paragraph 10 of her application under Section 23 of the said Act that the respondent No. 1 used to work as a "Loan Officer" in Bajaj Finance Company and earns Rs. 50,000/- per month as his salary. Apart from the said earning, he earns Rs. 30,000/- per month as broker of landed property. Thus, the respondent No. 1 earns Rs. 80,000/- per month.
- (3) Therefore, the petitioner prayed interim maintenance at the rate of Rs. 30,000/- per month for herself and her minor daughter.

The opposite party No. 1 has filed written objection against the application under Section 23 of the said Act. In paragraph 10 of the said application, he stated that he was sacked by the Bajaj Finance Company on the basis of the complaint lodged by his wife and he has been working at present under Shree Shyam Trading as an 'Accountant' and earns Rs. 6,000/- only per month.

The learned Magistrate accepted the contention of the respondent No. 1 and disposed of the application under Section 23 of the said Act directing the respondent No. 1 to pay Rs. 4,000/- per month for his wife and their minor child towards monetary relief.

It is submitted by the learned advocate for the petitioner that the respondent No. 1 managed to procure some false document to suppress his real earning only to deprive the petitioner and their minor daughter. It is also pointed out by him that if the respondent No. 1 was at all terminated from his service on the basis of the complaint filed by the petitioner, it could not have been written that the respondent No. 1 was released from his service by the Bajaj Finance Company on his own seeking. If the letter issued by the Bajaj Finance Company is accepted, it would be found that the respondent No. 1 was released from the date with effect from 7th March, 2018 on his own seeking and then he joined Shree Shyam Trading.

It is further submitted by the learned advocate for the petitioner that Shree Shyam Trading is a proprietorship firm of the friend of the respondent No. 1. The respondent No. 1 suppressed his real income and procured a false salary slip.

Last but not the least, it is submitted by the learned advocate for the petitioner that the respondent No. 1 is an able bodied man, he is under obligation to pay adequate monetary relief to the petitioner and their minor daughter.

I have heard the learned advocate for the petitioner at length. I have also perused the revisional application as well as the supplementary affidavit filed on behalf of the petitioner.

The petitioner has annexed some facebook chat of the respondent No. 1. It is found from the said facebook chat that the respondent No. 1 is leading a luxurious life with his friends and associates. Prima facie, it was not possible for the respondent No. 1 to spend days in multi-star hotels or to have sumptuous dinner with the friends and associates with the meagre salary of Rs. 6,000/-.

Be that as it may, the respondent No. 1 is an able bodied person, he is under obligation to maintain his wife and their child in the same standard in which the respondent No. 1 lives his life.

In view of such circumstances, this Court is inclined to enhance the interim monetary relief granted by the learned Magistrate in Misc. Case No. 49 of 2018 and affirmed by the learned Sessions Judge, Howrah in Misc. Appeal No. 129 of 2018.

Accordingly, the instant revision is allowed. Both the orders dated October 4, 2018 and 30th September, 2019 passed in Misc. Case No. 49 of 2018 and Criminal Appeal No. 129 of 2018 respectively, are set aside.

The respondent No.1 is directed to pay interim maintenance at the rate of Rs. 8,000/- per month towards the wife/petitioner herein and Rs. 7,000/- per month for their minor child till the disposal of the application under Section 12 of the said Act. Such interim monetary relief shall be paid from the date of the application within 7th of each succeeding month.

So far as the arrear monetary relief is concerned, the respondent No. 1 is at liberty to pay arrear interim monetary relief at the rate of Rs. 5,000/- per month to the petitioner.

The instant revision is, thus, disposed of.

(Bibek Chaudhuri, J)