

07
NB

10.02.2021

Ct. No. 32

THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction

Before:

The Hon'ble Mr. Justice Jay Sengupta

C.R.R. 3666 of 2019

Kamala Das

Versus

Kartick Das

For the Petitioner

: Mr. Lal Ratan Mondal
Mr. Avik Kumar Das
Mr. Dilip Kumar Sadhu

.....Advocates

For the Opposite Party

: Ms. Shabana Hasim

Mr. Majibur Ali Naskar.

Mr. Mobaidur Hossain

.....Advocates

Heard on

: 10.02.2021

Judgement on

: 10.02.2021

Jay Sengupta, J. :

This is an application challenging a judgment and order dated
30.11.2019 passed by the learned Judicial Magistrate, 5th Court,

Barrackpore, North 24-Parganas in Misc. Case No.597 of 2018 under Section 125 of the Code.

Learned Counsel appearing on behalf of the petitioner submits as follows. Interim maintenance was denied to the present petitioner simply on the ground that the petitioner/wife was purportedly staying in the house of the opposite party/husband with her major son and was given Rs.3000/- (Rupees Three Thousand only) as maintenance by the husband. An order of the Court should not have been denied to the wife simply because she had accepted that she had been receiving such sums from the husband. Learned Trial Court did not go into the merits of the matter as regards the actual requirements of the wife.

Learned Counsel appearing on behalf of the husband/opposite party submits as follows. The petitioner/wife had driven out the opposite party/husband from his own home. In spite of this, the husband has been sending Rs.3000/- (Rupees Three Thousand only) as maintenance allowance to her on his own volition. The husband does not have any objection if a sum of Rs.3000/- (Rupees Three Thousand only) was awarded by a Court of law as interim maintenance. In the interest of justice, the impugned proceeding ought to be expedited.

I have heard the submissions of the learned Counsels appearing on behalf of the petitioner and the opposite party No. 1 and have perused

the revision petition and the respective affidavits filed by the parties.

The prime grievance of the wife is that no order was passed granting interim maintenance to her. The actual financial needs have not been taken into consideration. If the husband stops paying such maintenance allowance, she will have to go back to the Court again praying for the interim relief.

The petitioner's case is that the opposite party is a former BSF personnel and was getting Rs.20,000/- (Rupees Twenty Thousand only) per month as pension and used to earn another sum of Rs.15,000/- (Rupees Fifteen Thousand only) per month as fixed deposit.

On the other hand, the main grudge of the husband/opposite party is that he has been denied entry into his own house.

A wife cannot be left to the mercy of a husband as regards payment of interim maintenance when such wife has already approached a Court of law with her claims.

It also had to be seen whether payment of Rs. 3000/- per month could fully absolve the husband from an accusation of neglect.

Be that as it may, in the interest of justice, I find that it will be appropriate if an interim maintenance is awarded to the petitioner at the rate of Rs.3000/- only (Rupees Three Thousand only) per month pending hearing of the main application. However, the learned Trial Court shall conclude the

impugned proceeding as expeditiously as possible without granting any unnecessary adjournment to any of the parties, preferably within a period of one year from the next date of hearing.

The Learned Trial Court shall not be swayed by any observation made in this order.

With these observations, the revisional application is disposed of.

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

(Jay Sengupta, J.)