

Form No. J(2)

IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction
Appellate Side

Present:

The Hon'ble Justice Jay Sengupta

CRR 3870 of 2019

Sulindar Dome
Vs.
Smt. Kajal Mallick

For the Petitioner : Mr. Avik Ghatak
: Mr. Amit Ranjan Pati
: Mr. Sagnik Mukherjee

For the opposite party : Mr. S. M. Obaidullah
: Mr. Roni Chowdhury

Heard on: 22nd March, 2021

Judgment on : 22nd March, 2021

The Court:

This is an application challenging an order dated 24.10.2019 passed by the learned Principal Judge, Family Court in Maintenance Case No. 39 of 2019, thereby directing the husband to pay a sum of

Rs. 5,000/- as monthly interim maintenance allowance and to defray the arrears by 15th monthly installments.

Learned counsel appearing on behalf of the petitioner submits as follows. The petitioner is employed as a Civic Volunteer with the Department of Home and Hill Affairs. As would be evident from a salary slip for the month of September, 2019, the petitioner was earning about Rs. 8,000/- per month. He does not have any other earning and has to look after his parents. Maintenance allowance can be granted only by keeping in mind the relative standings and earning capacities of the couple in question. With this kind of income, it is impossible for the petitioner to pay sums of Rs. 3,000/- per month to the wife and Rs. 2,000/- per month for the minor daughter as interim maintenance allowance. Although before the learned trial Court, a concession was apparently made by the learned advocate appearing on behalf of the husband, however, there was no such instruction given by the husband as would be evident from a subsequent affidavit affirmed by the husband in this regard. The petitioner had filed an application for restitution of conjugal rights. The proceeding under Section 125 of the Code may be directed to be disposed of as expeditiously as possible.

Learned counsel appearing on behalf of the opposite party/wife submits as follows. The petitioner was not only working as a civic volunteer but was also earning from his business as a broker of about

Rs. 33,000/- per month. After marriage, the petitioner inflicted torture upon the wife. That is why she was compelled to file a FIR, inter alia, under Section 498A of the Penal Code. The same is still pending. Considering the increase of prices of commodities, it is not possible to maintain oneself at any amount less than Rs. 3,000/- per month. The maintenance granted for the child is even less. The consent given before the learned trial Court cannot be withdrawn simply by executing an affidavit subsequently. As such, there is no illegality in the impugned order.

I have heard the submissions of the learned counsels appearing on behalf of the parties and have perused the revision petition.

The petitioner is employed as a civic volunteer and is earning a sum from such service. It is the allegation of the wife that he earns much more from his part time business as a broker. Be that as it may, there is no doubt that the petitioner was liable to pay appropriate sums as maintenance allowances for his wife and his minor child.

Regardless of any consent that might have been given by the husband during the proceeding before the learned trial Court, a sum of Rs. 3,000/- for the wife and a sum of Rs. 2,000/- for the minor child would ordinarily be the least that could possibly be awarded as maintenance allowance considering the rise in price indices.

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

Accordingly, the revisional application is dismissed.

However, there shall be no order as to costs.

The learned trial Court is requested to conclude the proceeding in the main application under Section 125 of the Code as expeditiously as possible without granting any unnecessary adjournment to any of the parties, preferably within a period of six months from the next date of hearing.

The learned trial Court shall not be swayed by any observation made by this Court as the same was made for deciding the present application.

With these observations, the revisional application is dismissed. Urgent photostat certified copies of this order may be delivered to the learned Advocates for the parties, if applied for, upon compliance of all formalities.

(Jay Sengupta,J.)