

02.02.2021
Court No. 19
Item No.37
CP

C.O. 1469 of 2020

Amit Dutta
vs.
Manashi Dutta

Mr. Biswajit Tiwari

.....for the petitioner.

Mrs. Reshmi Ghosh
Mr. Koustav Bagchi

...for the opposite party.

This revisional application has been filed challenging an order dated March 4, 2020, passed by the learned Additional District Judge, Fast Track 2nd Court, Malda in Misc. Case No. 04 of 2019, arising out of Mat Suit No. 182 of 2018.

The contention of the petitioner is that the order impugned directing the husband to pay a sum of Rs.10,000/- towards maintenance pendente lite to the wife was passed ex parte. The order was passed without calling for any evidence and without recording the satisfaction of the income of the husband.

Under such circumstances, this court feels that the order suffers from material irregularities.

This revisional application is allowed to the extent that the order impugned dated March 4, 2020 is set aside. The matter is remanded back to the learned court below for a fresh decision on the

application under Section 24 of the Hindu Marriage Act, 1955 in accordance with law and on its own merits.

It is also made clear that the parties are entitled to adduce both oral and documentary evidence at the hearing of the said application and the learned court below will allow the parties to file their affidavit of assets as well in the proceedings.

This court has not gone into the merits of the claims and counter claims of the parties and the learned court below will consider the matter afresh on the basis of the evidence to be led by the parties and the documents to be filed. Let the said application be disposed of within a period of three months from the date of communication of this order.

This court has not interfered with the orders of the learned criminal court with regard to the proceedings under Section 125 of the Cr. P.C.

The revisional application is disposed of. There shall be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the parties as expeditiously as possible subject to compliance of all usual formalities.

(Shampa Sarkar, J.)