

Form No. J(2)

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION**

Present:

The Hon'ble Justice Jay Sengupta

C.R.R. 408 of 2022

Sri Dipayan Paul

Vs

The State of West Bengal & Anr.

For the Petitioner : Mr. Krishnendu Bhattacharya
Ms. Shalini Bairagi

For the Opposite Party : Mr. Amitabha Ghosh
Ms. Nabanita Chatterjee

Heard on : 11.03.2022

Judgment on : 11.03.2022

Jay Sengupta, J.:

This is an application challenging an order of interim maintenance to the tune of Rs. 10,000/- per month in favour of the private opposite party.

Affidavit of service filed on behalf of the petitioner is taken on record.

Learned counsel appearing on behalf of the petitioner submits as follows. The petitioner is an employee of a private concern earning a gross income of Rs. 40,000/- and odd and a net income of about Rs. 34,000/- per month. On the other hand, the wife is a teacher in a school owned by her family. She earns about Rs. 25,000/- per month. By suppressing this, in the application under Section 125 of the Code, she had averred that she had no income. But, the parties had to file affidavits regarding assets and liabilities. There, she disclosed that she had an income of Rs. 1,000/- per month as an honorarium from a school. A document has been annexed in the revision petition claiming that the opposite party is a teacher in the school owned by her family. In her affidavit of assets and liabilities, the opposite party did not even care to produce the bank statements as required.

Learned counsel appearing on behalf of the wife/opposite party submits as follows. The income of the husband-petitioner is much more than what has been disclosed. It is true that the wife gets an honorarium from a school managed by her family. However, such sum is a minuscule amount, which cannot be treated as income. That is why soon after the applications for maintenance allowance were filed, the wife disclosed about earning an honorarium of Rs. 1,000/- from a school. There is no suppression whatsoever in this regard. Nominal earning of wife cannot disentitle her from claiming

maintenance from the husband. In any event, the main proceeding is pending before the learned trial Court.

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

As regards, the question of suppression, it appears that soon after filing of the applications for maintenance and interim maintenance, the wife had disclosed about earning an honorarium of Rs. 1,000/- from a school. Whether this would amounts to suppression or not can best be decided by the learned trial Court.

In any event, a miniscule amount that is earned by the wife cannot disentitle her from claiming maintenance from the husband. On these reliance may be placed on *Sunita Kachwaha & Ors. vs. Anil Kachwaha*, (2014) 16 SCC 715 and *Chaturbhuj vs. Sita Bai*, (2008) 2 SCC 316.

The petitioner is earning sufficiently from his service with a private concern. The marriage is also not disputed. Therefore, there is nothing wrong in granting a sum of Rs. 10,000/- as interim maintenance to be paid from the date of application.

Therefore, I do not find any infirmity in a direction passed by the learned Magistrate in awarding of interim maintenance at the rate of Rs. 10,000/- in favour of the wife when the husband who is working at a private concern earning of about of Rs. 40,000/- per month.

The points taken up by both the parties in this application can very well be decided by the learned trial Court. As such, I do not find any reason to interfere with the impugned order.

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

With these observations, the revisional application is disposed of.

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.)