

Form No. J(2)

IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction
Appellate Side

Present:
The Hon'ble Justice Jay Sengupta

CRR 1218 of 2022

Arindam Majumder
Vs.
Taniya Majumder nee Das

For the Petitioner : Mr. Pranajit Ray
Mr. Arka M.
Ms. Moumita Dhar
Mr. Anjan Ganjan

Heard on : 27th April 2022

Judgment on : 27th April 2022

The Court:

This is an application challenging a judgment and order 24.02.2022 passed by the learned Additional Sessions Judge, Fast Track Court III, Barrackpore, North 24 Parganas in Criminal Revision No. 93 of 2022

Learned counsel appearing on behalf of the petitioner submits as follows. The petitioner is the husband of the opposite party. Certain disputes cropped up between the couple after marriage. This led to the filing of an F.I.R. The case is still pending. The wife left the matrimonial home on her own volition. The wife is a qualified lady being an M.A., B.Ed. She is doing a private tuitions and earning a descent sum from there. She is also a beneficiary of schemes of Yubashree and Lakshmi Bhandar. From these two schemes, she is getting a total sum of Rs.2,000/- per month. On the

other hand the petitioner is a medical technician earning about Rs.26,000/- per month. He has a lot of liabilities in respect of his parents and other family members and in respect of a housing loan that he had taken. The amount of Rs.5,000/- granted as interim maintenance allowance by the Magistrate was reduced by the learned Sessions Judge to Rs. 4,500/- per month. However, the petitioner is not even able to pay such sum of money as interim maintenance to the wife.

I have heard the submissions of the learned counsel appearing for the petitioner and have perused the revision petition.

It appears that the petitioner is an able bodied man and well qualified and is admittedly earning a sum of Rs. 26,000/- per month from his salary. However, the case of the opposite party before the learned Court was that the petitioner was a government employee posted as a Medical Technician in the Department of Health & Family Welfare and was earning Rs.40,000/- per month from his salary.

On the other hand, although it is a case of the petitioner that the opposite party is an M.A., B.Ed giving tuitions to students, there is no proof of any sum that she may be earning. But, it is an admitted position that she is not having regular job. A sum of Rs.2,000/- that is opposite party allegedly getting from beneficial schemes of the State Government are not in lieu of permanent employment and is, in any way, not sufficient to maintain the opposite party.

It is a settled law that even if the wife earns a nominal sum as an income from some source, it does not mean that the same would disentitle her from claiming maintenance allowance from her husband. On this reliance is placed on (i) Chaturbhuj vs Sita Bai reported in (2008) 2 SCC 316 and (ii) Sunita Kachwaha and Ors. vs. Anil Kachwaha reported in (2014) 16 SCC 715

Therefore, it is quite clear that the petitioner is liable to maintain the opposite party

Considering the relative standings of the husband and the wife and the rising price indices, the learned Magistrate was absolutely right in directing the petitioner to pay a sum of Rs.5,000/- to the opposite party as interim maintenance allowance per month.

I find no justification in the order passed by the learned Revisional Court in reducing such sum.

Accordingly, I set aside the order passed by the learned Revisional Court and affirm the order passed by the learned Magistrate.

However, the petitioner shall be entitled to take up all the points on merits before the learned Trial Court during hearing of the main application under Section 125 of the Code.

With these observations, the revisional application is disposed of.

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

(JAY SENGUPTA,J)