

Court No. 39
Item 67
SK & Ali
10.05.2022

CRR 1305 of 2022

In Re: An Application under Section 482 of the Code of Criminal Procedure;

In the matter of:- **Sabyasachi Mahata**

Mr. Soumik Ganguli
Mr. Diptendu Banerjee
Mr. Sourat Nandy

....for the petitioners

This is an application challenging an order dated 4.2.2022 passed by the learned Judicial Magistrate, 2nd Court, Katwa, Purba Bardhaman in Misc. Case No. 101 of 2021 thereby directing the petitioner/ husband to pay maintenance allowance of Rs. 5,000/- per month to the opposite party no. 2/ wife and Rs. 4,000/- per month to the opposite party no. 3/ the minor daughter of the couple.

Learned Counsel appearing on behalf of the petitioner submits as follows. The petitioner is a Police Constable working in the West Bengal Police and has an income of Rs. 36,000/- per month and he has to maintain other family members as well. The wife also works in a private firm and earns Rs. 20,000/- per month. It will not be possible for the present petitioner to pay maintenance allowance to the wife and the child at such rates.

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

The marriage between the petitioner and the wife/opposite party no. 2 and the paternity of the opposite

party no. 3 are not denied.

The petitioner is not only an able-bodied man capable of earning, he is actually a government employee. The petitioner is working as a Police Constable and is having a net income of Rs. 36,000/- per month.

It is alleged by the other side that the petitioner earns Rs. 70,000/- per month including Rs. 30,000/- coming from landed property.

On the contrary, the petitioner has not been able to show any document to substantiate that the opposite party no. 2 is working or is earning money.

It is the duty of the husband to maintain his wife and child at a standard which they would have enjoyed had they been able to live in the household of the husband.

It is also settled law that even if the wife has a nominal income, it does not preclude her from claiming maintenance allowance from the husband.

In view of the relative standings of the couple and the rising price indices, it will not be proper to reduce the sums granted as interim maintenance allowance in favour of the petitioner and the minor child.

In view of the above, I do not find any merits in this revisional application, accordingly, the same is rejected.

However, there shall be no order as to costs.

The petitioner shall at liberty to raise all points taken up

in this application before the learned Trial Court at the time of final hearing of the Court.

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.)