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C.O. 1626 of 2022

**Indrajit Das
Vs
Mrs. Sristi Majumder Das**

Mr. Ayan Banerjee,
Mr. Soumo Chaudhury
... For the petitioner

Ms. Sibangi Chattopadhyay,
Mr. Piyashi Chakraborty. ... For the opposite party.

The subject matter of challenge in this revisional application is against the quantum of alimony pendente lite granted at the rate of Rs. 30,000/-, what is alleged to have been exorbitantly assessed by the Court below, merely relying upon the affidavit of assets furnished by the opposite party/wife thereby denying the evidence led by the petitioner/husband in the Misc Case No. 10 of 2020 for alimony pendente lite.

Mr. Ayan Banerjee, learned advocate appearing for the petitioner/husband submits that the petitioner/husband is in contractual job, and presently attached with Habra General Hospital. It is also submitted that as per present service condition, he has to remain present in the hospital for 12 hours, and as such not left with the opportunity to practise in private capacity remaining attached with different establishment.

The commitment and some liabilities of the petitioner/husband have not been strictly gone into by the Court below, and the quantum of alimony pendente

lite has been wrongly assessed, Mr. Banerjee argues.

It is also submitted by Mr. Banerjee that prior to Covid 19 situation, petitioner being a doctor had attachment with some diagnostic center and medical shops, but after being attached with Habra General Hospital, that attachment with the diagnostic center and medical shops ceased to exist, and for his present pre-occupation with the Habra General Hospital by reasons of his contractual job, and the time spent in hospital, petitioner is not in a position to earn from other sources, as a qualified doctor.

Per contra Ms. Sibangi Chattopadhyay, learned advocate appearing for the opposite party/wife supporting the order of the Court below submits that the sources of earning from other sources have been conspicuously disclosed in the affidavit of assets furnished by the opposite party/wife, in connection with prayer for alimony pendente lite, vide Misc Case No. 10 of 2020.

It is thus replied by the learned advocate for the opposite party that being a private practicing doctor, besides his present alleged engagement with Habra General Hospital, the petitioner/husband is having income from other sources. Petitioner's capability to earn much more from different sources, apart from the salary, he earns from contractual service is beyond doubt, opposite party argues. Mere denial would not be

sufficient to refute the income of petitioner/husband.

More so, the wife had the occasion to learn about the earning capacity, and the extent of earning of her husband during the conjugal period, which lasted for about four years, and such special knowledge, the wife/opposite party gathered as regards the income of husband may not be disregarded in application of the provisions available under Section 106 of the Evidence Act, opposite party replies.

According to opposite party, the order impugned would remain unaltered.

The only point raised in this case is that quantum of alimony pendente lite has been inappropriately assessed. True it is that wife has to be provided with a modest living, to which she was with her husband, while maintaining conjugal life. The status, the wife had with her husband, is thus supposed to be extended to the extent possible by the husband granting alimony pendente lite for the purpose. At the same time, the quantum, so assessed, must not be repressive, while fixing the quantum. The capabilities and the earning capacities of husband together with the commitment and liability towards other family members of the husband have also to be taken into account, while assessing quantum of alimony pendente lite.

The price index prevalent at the moment is of course another matter to be looked into in fixing the

quantum of alimony pendente lite.

When the husband alleges disputing with the quantum of alimony pendente lite, the Court is of the view that a little reduction of the amount, as regards the quantum of alimony pendente lite would however facilitate the petitioner/husband to deposit monthly alimony pendente lite to opposite party/wife without making any departure.

Since such reduction of quantum would help the husband to discharge his marital obligation towards his wife by paying alimony pendente lite so as to ensure a modest living to his wife, a little reduction in the quantum of alimony pendente lite will not cause any prejudice to the wife.

The impugned order is thus modified directing the petitioner/husband to pay alimony pendente lite at the rate of Rs. 25,000/- (Twenty Five thousand only) with effect from the date, as already ordered by the Court below.

The order impugned is accordingly modified to the extent made hereinabove, and the other portions of the order will remain unchanged.

This would not, however, prevent the opposite party/wife to claim for enhancement of the alimony pendente lite upon proof of change in the circumstances making out an appropriate case for the purpose before the Court below during the pendency of Mat suit, if

there be occasion, so arises.

With this observation and direction, the revisional application stands disposed of.

Urgent photostat certified copy of the order, if applied for, be given to the parties on usual undertakings.

(Subhasis Dasgupta, J)