

24-03-2022
Subha
Item no. 08
Ct no.34

IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction

C.R.R 2263 of 2019

With
CRAN 1 of 2021

In the matter of : Sumit Agarwal

.....petitioner.

In Re : An application under Section 397/401 read with Section 482 of the Code of Criminal Procedure.

Ms. Sreeparna Das
Ms. Nahid Ahmed

...for the petitioner.

Ms. Neha Agarwal

.....opposite party no.2 (in-person).

The revisional application was preferred at the instance of the husband challenging the appellate court's order dated 14.06.2019 passed by the learned Additional Sessions Judge, Fast Track Court-2, Bichar Bhawan, Calcutta in connection with Criminal Appeal No. 64 of 2018 wherein the learned appellate court was pleased to affirm the order dated 22.06.2018 passed by the learned Metropolitan Magistrate, 20th Court, Calcutta in Misc. Case being No. MISCN 123154 of 2016.

By the said order, the learned Metropolitan Magistrate, 20th Court, Calcutta amongst others directed to pay a sum of Rs.10,000/- towards alternate accommodation and a sum of Rs.30,000/- per month towards interim maintenance.

Ms. Das, learned advocate for the petitioner submits that initially the revisional application against the appellate court's order

was preferred challenging the quantum so awarded, but in course of the proceedings, there was a direction passed by a co-ordinate Bench of this court for the arrears to be paid. Learned advocate for the petitioner submits that the arrears have already been cleared.

It has also been submitted by the learned advocate for the petitioner that the certified copy of the order of the civil court granting maintenance could not be produced at the relevant point of time and as such, the same was not taken into consideration by the learned Metropolitan Magistrate while passing the interim order.

The opposite party appears in person and is aggrieved by the manner in which the proceedings are progressing. She opposes the contentions and resists the submissions so far as the arrears are concerned, she submits that there are huge dues and the quantum of award which has been granted by way of interim maintenance is not commensurate with the earning, assets and the status of the husband or his family.

Number of connected applications have been preferred in connection with the main revisional application enclosing Photostat copies of documents relating to receipts and counter-affidavit to that extent denying the same with other enclosures.

Both the parties intend to file their affidavit of assets pursuant to the decision of the Hon'ble Supreme Court before the learned trial court which according to them was never before the court prior to the order dated 23.06.2018 being passed.

Accordingly, I direct that the husband/petitioner before this court would file his affidavit of assets within one month from the date

of communication of this order before the learned Metropolitan Magistrate, 20th Court, Calcutta

The opposite party/wife appearing in person would within the same period of time file her affidavit of assets.

The learned Magistrate would thereafter fix a date within a fortnight and freshly consider the issue of interim maintenance after assessing all the documents, which have been placed by both the parties.

So far as the arrears are concerned, the learned Magistrate would call for separate affidavits both from the husband who has asserted that he has paid substantial amount and the wife who has denied the quantum which was spelt out by the husband.

Needless to state that the learned Magistrate, will not be influenced by any observation made by this court and will arrive at his independent decision within a period of 60 days from the date of the first appearance of both the parties before the court below.

As the husband is being represented by a learned lawyer and the opposite party is appearing in person before this court, I direct that the both the parties must be physically present before the learned Metropolitan Magistrate, 20th court, Calcutta on 11th April, 2022 and the learned Magistrate, thereafter would proceed according to the guidelines set out above.

With the aforesaid observations, the revisional application being CRR 2263 of 2019 is disposed of.

All pending applications, if any, in connection with the revisional application, are consequently disposed of.

Interim order, granted earlier, is hereby vacated.

All concerned parties are to act in terms of a copy of this order duly downloaded from the official website of this court.

[Tirthankar Ghosh, J]