

31-01-2023
Subha
Item no.24
Ct no.34

IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction

CRR 1559 of 2021

Sri Deborshi Roy
-versus-
Smt. Swagata Roy(Dey)

Mr. Pinaki Ranjan Chakraborty
.....for the petitioner.

Mr. Arun Shaw
.....for the Opposite Party.

The challenge in the present revisional application relates to the order passed by the learned Special Judge-cum-Additional Sessions Judge(E.C. Court), Berhampore, Murshidabad in Criminal Revision No. 154 of 2019 wherein the learned Sessions Judge while exercising its revisional application was pleased to set aside the order dated 17th September, 2019 passed by the learned Judicial Magistrate, 1st court, Berhampore in M. R. Case No. 63B/2016.

The learned Judicial Magistrate, 1st Court, Berhampore, Murshidabad was pleased to award maintenance to the minor son to the tune of Rs. 6000/- per month but refused to grant any maintenance to the wife on the ground that a case was made out by the husband/opposite party from where it would be reflected that the wife willfully refused to reside with the opposite party.

Assigning such reason, the learned Judicial Magistrate, 1st Court, Berhampore refused to award any maintenance to the wife.

Challenging such order, the wife/opposite party preferred a revisional application before the learned Sessions Court and the learned Sessions Judge by its judgement and order dated 4th March, 2021 was pleased to allow the prayer of the wife thereby awarding Rs.10,000/- per month to the wife and affirming the order of Rs.6000/- per month awarded to the minor son.

The petitioner is aggrieved by the fact that the learned Sessions Judge has set aside the order of the learned Magistrate, which was without any foundation.

I have considered the submissions advanced by the learned advocate for the petitioner as well as the private opposite party.

I find from the evidence of the case that the wife categorically deposed that she was directed to go out of the house by the husband when she was seven month's pregnant. None of the parents-in-law resisted her and she had to come out of her matrimonial home and go to her paternal home in a single wearing apparel, thereby taking shelter at her father's residence.

This evidence was not confronted by the husband in cross-examination. Consequently, the observation of the learned Judicial Magistrate is that the wife willfully refused to reside at the matrimonial home is against the records of the case. The learned Sessions Court has rightly awarded the maintenance to the wife and as such the order under challenge do not call for any interference.

Accordingly, the present revisional being CRR 1559 of 2021 is dismissed.

Pending applications, if any, are consequently disposed of.

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]