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C.R.R. No.2400 of 2021

In Re: A petition under Sections 397/401 read with Section 482 of the Code of Criminal Procedure, 1973;

Karan Malhotra
Versus
Namrata Malhotra

Mr. Ayan Bhattacharjee,
Mr. S. Haque,
Mr. Suman Majumdar.
...for the petitioner

Ms. Monika Kalra,
Mr. Satadru Lahiri,
Ms. Shilpa Jati,
Ms. Prerana Vishwas.
...for the opposite party.

The subject matter of the revisional application relates to the order dated September 7, 2021 passed by the learned Additional Principal Bench, Family Court, Calcutta in connection with Misc. Case No.42 of 2018 under Section 125(1) of the Code of Criminal Procedure. By the said order, the learned Family Court was pleased to award interim maintenance to the tune of Rs.30,000/- per month for the wife/opposite party and a sum of Rs.10,000/- per month for the minor daughter along with litigation cost of Rs.20,000/-. Order reflects that such amount was to be paid from the date of filing of the application till disposal of the case.

It has been brought to the notice of this Court that another proceeding under Section 12 of the PWDV Act being Misc. Case No.96 of 2018 is pending before the learned Metropolitan Magistrate, 12th Court, Calcutta. Learned Metropolitan Magistrate,

12th Court, Calcutta by its order dated 17.04.2019 was pleased to refuse any interim maintenance to the opposite party/wife. However, by the same order learned Magistrate under Section 23 of the PWDV Act was pleased to award Rs.14,000/- per month to the minor daughter.

Being aggrieved, the opposite party/wife approached the appellate court being learned Chief Judge, City Sessions Court, Calcutta and the learned Additional District and Sessions Judge, 1st Fast Track Court, Calcutta by its judgment and order dated 01.10.2019 was pleased to set aside the part of the order relating to refusal of any award of maintenance to the wife and awarded a sum of Rs.10,000/- per month to be paid from 17.04.2019.

Records reflect that both Misc. Case No.42 of 2018 and Misc. Case No.96 of 2018 were filed in the month of July, 2018.

The subject matter before this Court relates to Misc. Case No.42 of 2018 wherein the learned court was pleased to direct the petitioner to pay the maintenance from the date of the filing of the application.

Mr. Ayan Bhattacharjee, learned advocate appearing for the petitioner submits that the amount of maintenance which was awarded by the learned Metropolitan Magistrate, 12th Court, Calcutta and subsequently altered by the learned appellate court in connection with the said proceedings stands as Rs.14,000/- per month to the minor daughter and Rs.10,000/- per month to be paid to the opposite party/wife. Such amount of Rs.24,000/- per month is being paid on and from April, 2019 and the said amount till date

has been cleared.

However, the learned advocate appearing for the opposite party/wife resists such submission and states that there are dues which have been accumulated.

Having considered that the present litigation is continuing from the year 2018 for a period of five years, I am not inclined to interfere with the order passed by either court. Both the orders passed by the learned Metropolitan Magistrate, 12th Court, Calcutta as well as the learned Family Court are taken as a whole and the following directions are passed:

- (i) The amount of Rs.24,000/- (Rs.14,000/- per month to the minor child and Rs.10,000/- per month to the mother) should be paid from the month of July, 2018, i.e. date/month of the filing of the application.
- (ii) If any amount has been deposited to the Family Court, the said quantum would be adjusted in connection with the proceedings pending before the learned Metropolitan Magistrate, 12th Court, Calcutta in Misc. Case No.96 of 2018.
- (iii) The quantum which has been decided by the learned Family Court at present is not interfered with or set aside. However, the said order is kept in abeyance.
- (iv) Applicant before the Family Court would adduce some more evidence to satisfy the court regarding the foundation of the earnings of the husband so that the difference in quantum between the two courts be

marginalised. However, this will not prevent the Family Court to arrive at a fresh quantum or the same quantum at the stage of final determination of the case.

(v) The husband/petitioner would by 15th August, 2023 in two instalments clear the dues which have accrued. First of such instalment should be cleared by 25th June, 2023.

It has been informed that the proceedings in Misc. Case No.96 of 2018 is at a stage when the cross-examination of the PW1 is in progress. Learned Magistrate would fix a date at least once in a month so that the trial of the case can be taken to its logical conclusion within a reasonable period of time.

So far as the Family Court is concerned, in Misc. Case No.42 of 2018, learned Family Court would on and from the next date, fix at least one date in a month so that the trial of the case can be taken to its logical conclusion within a reasonable period of time.

With the aforesaid observations, CRR 2400 of 2021 is disposed of.

Pending application, if any, is consequently disposed of.

Mr. Bhattacharjee, learned advocate appearing for the petitioner submits that he has also preferred a revisional application being CRR 3841 of 2019. Learned advocate submits that he is not pursuing the said revisional application including the reliefs prayed therein and would take appropriate steps for not pressing the application before the court having determination.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all requisite formalities.

(Tirthankar Ghosh, J.)