

Ct.
No.
3

33
akb

22.11
2023

**Calcutta High Court
In The Circuit Bench at Jalpaiguri
Appellate Side**

C.O. 80 of 2023

**Rachana Agarwal
-Versus-
Arvind Kumar Goyal**

**Mr. Bhaskar Roy Mahashaya
Mr. Sannidhya Dutta ...For the Petitioner**

**Mr. Nabankur Paul
Mr. Abhishek Sarkar ...For the Opposite Party**

Being aggrieved by order No. 31 dated 12th May, 2023 passed by the learned Additional District Judge, 3rd (Special) Court, Jalpaiguri present application under Article 227 of the Constitution of India has been preferred. By the order impugned learned Court below was pleased to ask the opposite party / husband to go on paying a sum of Rs.25,000/- per month to the petitioner towards alimony pendent lite from the date of the order i.e. from 12th May, 2023.

Being aggrieved by that order, the petitioner herein contended that the documents relating to husband's income goes to show that the opposite party earns Rs. 98,128/- per month and as such the Court below ought to have granted more amount of maintenance, as the wife / petitioner herein has to bring up a child, who was born due to said wedlock.

Petitioner further contended that the Court below has erred in granting the pendent lite maintenance from the date of the order and such pendent lite maintenance if allowed only from the date of the order that is from 12th May, 2023, it would cause immense hardship and prejudice to both the petitioner and her

child. Accordingly, the petitioner has prayed for interference invoking supervisory jurisdiction of this Court.

Mr. Nabankur Paul, learned Counsel appearing on behalf of the opposite party submits that the documents relating to income as submitted by the petitioner have not been verified by his client. However, considering the fact that the child was born due to said wedlock, the petitioner is willing to pay monthly pendent lite maintenance of Rs. 25,000/- per month as awarded by the Court below.

I have considered the submissions made by both the parties. On perusal of the amount of maintenance awarded by the Court below which is supported by reasons, I find nothing perversity in the said order. However, in view of the judgment passed by the Hon'ble Apex Court in *Rajnesh Vs. Neha & Anr. (Criminal Appeal No. 730 of 2020 (arising out of SLP (CRL.) No. 9503 of 2018)*, that the maintenance in all cases will be awarded from the date of filing of the application for maintenance, the Court below was not justified in passing the order regarding pendent lite maintenance from the date of the order, but he ought to have granted such maintenance from the date of filing of the application.

In such view of the matter the opposite party / husband is hereby directed to pay the pendent lite maintenance of Rs. 25,000/- per month to the petitioner / wife towards alimony pendent lite from the date of filing

of the application and not from the date of the order. The amount of maintenance as awarded by the Court below towards pendent lite maintenance shall remain un-interfered.

It is further clarified that the maintenance amount of Rs. 20,500/- per month paid from the month of November 2019 to February 2021 in Domestic Violence Case No. 6 f 2018, shall be adjusted with the aforesaid arrear pendent lite maintenance amount.

Accordingly, the revisional application, being C.O. 80 of 2023 is disposed of.

Urgent photostat certified copy of this order, if applied for, be supplied to the petitioner, on priority basis on compliance of all usual formalities.

(Ajoy Kumar Mukherjee, J.)