

01-03-2024
Subha
Item no. 107
Ct no.34

IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction

CRAN 1 of 2024
in
CRR 236 of 2024

Smt. Suchandra Dey(Pal)
-versus-
Sri Debabrata Pal

Mr. Surajit Basu
Mr. R. Chattopadhyay
Mr. Sagnik Bhattacharya
.....for the petitioner.

Mr. Shibaji Kumar Das
Mr. Dipendu Sarkar
...for the opposite party.

Re : CRAN 1 of 2024

There is a delay of two days in preferring the revisional application.

Having considered the reasons so assigned in the application for condonation of delay, I am of the view that the reasons so assigned are just and sufficient.

Accordingly, the delay is condoned. The application being CRAN 1 of 2024 is allowed.

Re : CRR 236 of 2024

Learned advocate draws the attention of this court to the order passed in M Case No. 60 of 2022 by the learned Judicial Magistrate, 2nd court, Barasat wherein the learned court was

pleased to refuse the order of interim maintenance under Section 125 of the Code of Criminal Procedure.

Mr. Das, learned advocate appearing for the husband/opposite party resisted the submissions of the learned advocate for the petitioner that the opposite party was earning a huge sum and was not paying the amount of Rs.15,000/- which was decided by the civil court.

It has also been submitted on behalf of the opposite party/husband that the wife is sufficiently educated and is already engaged in a job. As such, according to the learned advocate for the opposite party, the wife at this stage is not entitled to any interim maintenance as she is well protected by the orders passed by other courts. Each proceeding has to be taken into account independently. By the amendment of 2001 in the Code of Criminal Procedure the ceiling relating to the amount of maintenance was removed by the legislature. Accordingly, it was the expectation of the legislature that the wife is entitled to lead a life which would be commensurate with the status of the husband or the life she was habituated at the time of the dispute and difference which arose in the matrimonial tie-up. I find from the records of the case that the learned Magistrate from the affidavit of assets and liabilities has recorded in the order that the husband is earning a sum of Rs.1.30 lakhs to 1.40 lakhs. As such, I am of the view that the finding of the learned Judicial Magistrate that the wife is not entitled to any interim maintenance cannot be accepted as the present proceedings under Section 125 of the Code of Criminal Procedure is

an independent proceeding. The only issue, which the learned court, could have done is to grant an adjustment or set-off in respect of the amount which is being received by the wife in respect of the other proceedings.

Having considered the circumstances, I am of the view that the husband/opposite party would pay a sum of Rs.25,000/- per month by way of interim maintenance till the disposal of the case being Misc. Case no. 60 of 2022 and the said amount would be paid on and from 17th October, 2023 as it has been submitted that the petitioner has been receiving monetary relief for the proceeding under the PWDV Act being C. Case No. 524 of 2022. It is reiterated that this amount of Rs.25,000/- would be subject to adjustment/set-off in respect of other proceedings where the husband has been paying the money.

The present case under Section 125 of the Code of Criminal Procedure is of the year 2022. In view of the aforesaid, the learned Magistrate would fix at least one date in every forty-five days for the purpose of the trial of the case. The witnesses should appear on the dates, which are fixed by the learned trial court. Needless to state that the final outcome would be decided by the learned Magistrate without being influenced by any observations made by this court while disposing of the revisional application.

Pending any other applications, if any, are consequently disposed of.

Accordingly, the revisional application being CRR 236 of 2024 is 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]