

Item No.22
25.04.2024
Court. No. 19
GB

C.O. 351 of 2024

Smt. Parbati Bagchi @ Basu
Vs.
Sri Sandipan Bagchi

*Mr. Sandipan Banerjee,
Mr. Sobhan Majumder*

...for the Petitioner.

Mr. Joydeep Mukherjee

...for the Opposite Party.

1. The revisional application arises out of an order dated January 3, 2024, passed by the learned Additional District Judge, Fast Track 3rd Court at Sadar, Paschim Medinipur in connection with Matrimonial Suit No.557 of 2017.
2. By the order impugned, the learned court granted maintenance pendente lite at the rate of Rs.8,000/- per month to be paid within 7th of each month from the date of the order till the disposal of the suit. Litigation cost of Rs.10,000/- was also awarded. The order was challenged in C.O.1260 of 2022 by the husband/opposite party. By the order dated June 16, 2022, the revisional application was entertained and an interim amount of Rs.6,000/- per month to be paid within 10th of each succeeding month according to English calendar month, was passed.
3. The opposite party/husband was the petitioner in the civil revision. He did not appear and the revisional application was dismissed. The interim order was vacated. Thus, the alimony pendente lite as directed by the court, insofar as the quantum was concerned, revived. The husband filed

an application for modification of the order, inter alia, on the ground that it had been well-settled in various decisions of this Court and finally by the Hon'ble Apex Court in the matter of ***Rajnesh versus Neha & Anr.*** reported in **(2021) 2 SCC 324**, that direction for maintenance pendente lite should be from the date of the application filed by the wife and not the date of the order of the court. Paragraph 109 of the said judgment is quoted below:-

4. "109. The judgments hereinabove reveal the divergent views of different High Courts on the date from which maintenance must be awarded. Even though a judicial discretion is conferred upon the court to grant maintenance either from the date of application or from the date of the order in Section 125(2) CrPC, it would be appropriate to grant maintenance from the date of application in all cases, including Section 125 CrPC. In the practical working of the provisions relating to maintenance, we find that there is significant delay in disposal of the applications for interim maintenance for years on end. It would therefore be in the interest of justice and fair play that maintenance is awarded from the date of the application."
5. The learned court rejected the modification application without assigning any reasons, save and except that the application for modification was filed after 17 months from the order. The records would reveal that a revisional

application was pending before the High Court during the interim period. The learned court failed to exercise jurisdiction and correct the order which was palpably wrong in view of the well-settled principle that maintenance pendente lite should be granted to the spouse from the date of the application.

6. The revisional application is allowed. The husband is directed to pay maintenance at the rate of Rs.8,000/- per month from the date of filing of the application, i.e., February 22, 2018. The arrears which have accumulated, shall be liquidated in four equal monthly instalments. Each of such instalments shall be paid with the current maintenance for each month. Fraction if any, shall be added to the last instalment. The matrimonial suit shall proceed, but failure to deposit the current monthly maintenance or the arrears shall entitle the wife to seek all remedies available in law. The suit shall also not proceed in case of default.
7. Accordingly, the revisional application is disposed of.
8. All the parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)