

22-02-2024
Subha
Item no. 107
Ct no.34

IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction

CRR 682 of 2024

Biswajit Sen

-versus-

Babita Sen

Mr. Gunjan Kumar Singh

Mr. Prakash Mishra

Ms. Sweta Singh

.....for the petitioner.

Learned advocate for the petitioner is aggrieved by the order passed in Criminal Motion No. 98 of 2023 by the learned Sessions Judge, Hooghly.

The subject matter of the said revisional application related to the order dated 02-06-2023 passed by the learned Judicial Magistrate, Chinsurah, Hooghly in Misc. Case No. 32 of 2019.

The main thrust of the petitioner is that without accepting the affidavit of assets and liabilities as has been observed in *Rajnesh -vs- Neha and anr.*, the learned Judicial Magistrate proceeded to decide regarding the quantum of interim maintenance. The learned Sessions Court on being approached also approved the same.

I have considered submissions advanced by the learned advocate for the petitioner and the quantum of interim maintenance which has been awarded is Rs.6000/- per month to the wife.

It has been admitted that the petitioner happens to be the employee in the Indian Army. Marriage is also admitted. Petitioner has not raised any issue except filing of assets and liabilities as has been pronounced by the Hon'ble Supreme Court in the aforesaid Judgement of Rajnesh -vs- Neha.

I have considered the submissions so advanced and I am of the view that a case which was initiated in the year 2019 and an order of interim maintenance was passed in the year 2023 with an admitted position that the husband is employed in the Indian Army, then in that case an amount of Rs.6000/- per month which has been awarded cannot be set to be excessive or beyond the capacity of the husband. Two courts have already appreciated the facts. The issue relating to affidavit of assets and liabilities is a guideline which has been laid down by the Hon'ble Supreme Court. It may not be possible for the learned trial court to wait for such a situation to arise where the parties may be compelled to give such affidavit of assets and liabilities. The present amount which has been awarded is an interim measure pending the final disposal of the main case under Section 125 of the Code of Criminal Procedure. Without entering into the zone regarding the other issues involved which deters the petitioner/husband to pay any quantum of maintenance at this stage after four years without any evidence being adduced, I am not inclined to interfere with the proceedings. If the husband or the parties intend to file affidavit of assets and liabilities, they would be at liberty to do so within a period of two months from date. The learned Magistrate if at all

required will take the same into account after the evidence is over for arriving at its final determination for quantum of maintenance.

No interference is called for at this stage.

With the above observations, the present revisional application being CRR 682 of 2024 is disposed of.

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]