

30.08.2024.
68.
Ct. No.237
Bd.

CRR 1773 of 2022

Ruby Singhanian
-vs-
Punit Singhanian

Mr. Sayak Chakraborty
Mr. Sandipan Sanargi
Mr. Wrikbrata Roy for the petitioner.

Mr. Santanu Talukdar ... for the opposite party.

Being aggrieved by and dissatisfied with the order dated 23rd February, 2022 passed by learned Additional Sessions Judge, Fast Track Court-III, Alipore, South 24 Parganas, in Criminal Revision No. 10 of 2021, the petitioner/wife herein has preferred this application.

By the impugned order learned Court below has affirmed the order of ad-interim maintenance granted by learned Judicial Magistrate on 10th January, 2020 in Case No. M 520 of 2018.

It is submitted on behalf of the petitioner/wife that she was married with the opposite party/husband, according to Hindu Rites and Customs on 10th July, 2016, which was subsequently registered on 11th March, 2017. The petitioner/wife alleged that the opposite party/husband and his family members demanded Rs. 25,00,000/- from the petitioner/wife and when she informed her parents about said demand, they had expressed their inability to pay the

said amount. Petitioner/wife alleged that she was also told that she will be driven away from her matrimonial home. Thereafter, in retaliation the opposite party started residing separately.

Further case of petitioner is that she is mother of an autistic child aged about 4 years and since petitioner/wife herein was made to leave the job after marriage, she has no source of income to maintain herself and also for upbringing of the child and as such she preferred an application under section 125 of the Code of Criminal Procedure before the learned Judicial Magistrate, Alipore, being aforesaid Case No. M 520 of 2018. Learned Judicial Magistrate upon hearing was pleased to pass an ad-interim order of maintenance of Rs. 19,000/- per month.

The petitioner herein contended that the monthly family income of the opposite party/husband is almost 15,000,00/- to 20,000,00/- from various business source and even the opposite party in his objection against interim maintenance admitted that his monthly income is Rs. 1,12,000/-. However, learned court below ignored the settled law and awarded the maintenance amount which is not sufficient for maintenance of the petitioner and her child for whom also petitioner has to incur huge medical expenses.

Both the parties i.e., petitioner herein and opposite party being aggrieved by the interim maintenance order preferred a Revisional application being Criminal Revision No. 10 of

2021 before the learned Additional Sessions Judge. However, learned Court below after contested hearing upheld the interim maintenance order passed by learned Judicial Magistrate, 6th Court, Alipore.

Being dissatisfied with the said order petitioner/wife herein has preferred present application contending that considering the financial status of the husband/opposite party the learned Court was not justified in assessing the quantum of maintenance. As such, the order is not maintainable which was passed in absence of respective party's affidavit of assests and liabilities.

At the time of hearing, both the parties agreed that the order impugned was passed without considering the mandatory direction passed by the Apex Court in the case of **Rajnish -vs- Neha & Anr. (2021) 2 SCC 324.**

Upon hearing learned counsel appearing on behalf of both the parties, it appears that the order passed by the learned Trial Court was on 10th January, 2020.

However, the Revisional Court passed the order on 23rd February, 2022 without considering the mandatory direction passed by the Apex Court in the case of **Rajnish -vs- Neha** (supra) decided on 4th November, 2020.

Upon considering the respective submissions made by the parties, I am of the view, that before deciding the issue, the court below ought to have asked for affidavit of assests and liabilities from both the parties for the purpose of

adjudication even interim maintenance application under Section 125 Cr.P.C.

In such view of the matter, the present application being CRR1773 of 2022 is hereby disposed of with the direction upon the trial court to adjudicate the petitioner's prayer for ad-interim maintenance filed under section 125 of the Code of Criminal Procedure afresh in compliance with the directions made by Apex Court in the case of **Rajnish -vs- Neha** (supra) and to dispose of the same after obtaining affidavit of assets and liabilities from both the parties, preferably within a period of six weeks from the date of communication of this order. The impugned order passed by the Trial Court dated 10th January, 2020 and the order passed by the court below dated 23rd February, 2022 are hereby set aside.

However, the opposite party/husband herein will go on paying an amount of Rs. 19,000/- per month to the petitioner/wife herein month by month till the disposal of the interim maintenance application afresh by the Trial court.

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

(Ajoy Kumar Mukherjee, J.)

