

22.08.2024

SL. 59
Court No. 551
Sourav

C.R.R. 2093 of 2011

In the matter of: **Amitava Ghosh**

... petitioner.

Mr. Tapas Kr. Ghosh
Mr. Tanmoy Chowdhury

... for the petitioner.

Mr. Shamik Chatterjee
Mr. Aditya Bikram Mahata
Mr. Sahil Kabir

... for the opposite party.

1. The legality, propriety and correctness of the judgment dated 18.04.2011 as passed by the learned judge, Special Court-cum-Additional Sessions Judge, Durgapur, Burdwan now Paschim Bardhaman, in Criminal Motion No. 34 of 2010 is the subject matter of the instant revisional application.
2. By the impugned judgment, the learned first revisional court modified the order of maintenance dated 17.04.2010 as passed in a proceeding under Section 125 Cr.P.C. by the learned Additional Chief Judicial Magistrate, Durgapur in Misc. Case No. 151 of 2007 thereby directing the husband to pay Rs. 3,500/- per month towards monthly maintenance instead of Rs. 4,000/- per month as determined by the learned trial Court.
3. On perusal of the entire materials as placed before this Court and after hearing the learned advocates for the contending parties, it appears to this Court that admittedly the present revisionist/husband and the opposite

party/wife both belong to the legal fraternity. There was matrimonial dispute between the present revisionist and the opposite party. On account of such they started living separately.

4. Before the learned trial Court, it was alleged on behalf of the opposite party/wife herein that she was not maintained properly by her husband who is the revisionist before this Court. In course of proceeding under Section 125 Cr.P.C., learned ACJM, Durgapur in Misc. Case No. 151 of 2007 found merit in the petition under Section 125 Cr.P.C. and thus awarded a sum of Rs. 4,000/- as monthly maintenance to be payable by the present revisionist/husband.
5. The husband was not satisfied with the quantum of maintenance and thus, approached the first revisional court.
6. It reveals from the impugned judgment that the learned first revisional court duly considered the entire materials as placed before him and found no reason to interfere with the judgment impugned before him. The first revisional court further noticed that the revisionist/husband is a practicing lawyer of 20 years while the opposite party/wife is a junior member of the Bar. The learned first revisional court further noticed that the learned trial Court also found disparity of income of the revisionist/husband and the opposite party/wife.
7. In considered view of this Court, it is settled position of law

that a wife is entitled to lead a life equal to the standard of her husband irrespective of the fact that she has got her independent income. It appears to this Court that while disposing the Criminal Motion No. 34 of 2010, the learned first revisional Court applied the correct proposition of law and found no reason to interfere with the order impugned before him except to the extent that he has reduced the quantum of maintenance of Rs. 4,000/- to Rs. 3,500/- per month which in considered view of this Court ought not to have been done.

8. However, since before this Court, the wife has not approached challenging the said order of the first revisional Court, this Court is reluctant to increase the maintenance as fixed by the first revisional court but this Court finds no reason to allow the instant revisional application by interfering and/or diminishing the quantum of maintenance as fixed by the learned first revisional Court. It appears to this Court that the revisional application is absolutely frivolous and there is no merit in it.
9. Accordingly, the instant revisional application being **CRR 2093 of 2011** is dismissed.
10. Department is directed to communicate both the learned trial Court as well as to the first revisional Court for the information and record.

(Partha Sarathi Sen, J.)

