

D/L18  
12.03.2024  
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C.R.R.2005 of 2023

In Re: An application under Section 482 read with Section 401 of the  
Code of Criminal Procedure;

Tonmoy Das  
Versus  
Meenakshi Nandi Das

Ms. Madhurai Sinha.  
...for the petitioner.

Mr. Swapan Kumar Pal  
Ms. Mahuya Dutta Biswas  
Ms. Srijani Mukherjee.  
...for the opposite party.

The revisional application has been preferred challenging the order dated 09.03.2023 passed by the learned Sessions Judge, Paschim Medinipur in Criminal Revision No.646 of 2022 wherein the subject matter of challenge was an order dated 17.06.2022 passed by the learned Judicial Magistrate, 1<sup>st</sup> Court, Paschim Medinipur. The revisional court affirmed the order passed in M.R. Case No.196 of 2021. The learned Magistrate by its order dated 17.06.2022 arrived at an award of interim maintenance of Rs.30,000/- per month to be paid by the husband. The said order was challenged in Criminal Revision No.646 of 2022 and the learned sessions court while disposing of the revisional application affirmed the order passed by the learned Judicial Magistrate, 1<sup>st</sup> Court, Paschim Medinipur in M.R. Case No.196 of 2021, thereby dismissing the revisional application.

At the stage of consideration of the interim maintenance application, I find no affidavit of assets and liabilities were

submitted before the court and the learned Magistrate only on the basis of the application under Section 125 of the Code of Criminal Procedure along with the application for interim maintenance was pleased to come to a finding after taking into consideration the written objection regarding the amount of Rs.30,000/- per month to be awarded. What weighed with the learned Magistrate was that the husband is a Founder and Director of Dudent Broadband Pvt. Ltd. Company which extended to East India and South India and also provided service to South Eastern Company and the husband earns Rs.2,00,000/- per month having properties more than 10 bighas wherefrom he earns Rs.1,50,000/- per month and his other sources of income of Rs.20,000/- per month. So, the consideration of the learned Magistrate was based on an assessment that the husband was earning Rs.3,70,000/- per month. The income tax return reflects that the gross income which has been shown in respect of the husband, namely, Tonmoy Das is around Rs.78,000/- per year.

Record reflects that at the time of admission of the revisional application, a co-ordinate Bench of this Court was pleased to direct the husband to pay a sum of Rs.10,000/- per month to the wife till the disposal of the revisional application.

I direct that until and unless substantial materials are produced before the learned trial court, it would not be in the interest of justice to foist a huge sum of Rs.30,000/- per month in respect of a person who is earning Rs.78,000/- per year. Considering the same, I direct the husband to pay a sum of Rs.10,000/- per month during the main proceedings until and

unless the wife/opposite party is in a position to produce the materials to the extent that the income tax returns which have been shown are disproportionate to the actual earnings of the husband or the lifestyle maintained by the husband is not commensurate with the earnings appearing in the income tax returns.

Learned Magistrate is directed to proceed with the trial of the case and it is directed that an independent decision be taken by the learned Magistrate at the end of the trial for fixing the quantum of maintenance taking into account the additional materials which are produced in course of the trial. One date be fixed in a month for the purpose of the trial so that the same can be taken to its logical conclusion within a reasonable period of time.

With the aforesaid observations, CRR 2005 of 2023 is disposed of.

Pending connected application, if any, is consequently disposed of.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

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

**(Tirthankar Ghosh, J.)**