

27.06.2024
Sl.No. 75
Ct. 32
Amalranjan

In The High Court At Calcutta
Criminal Revisional Jurisdiction
Appellate Side

CRR 1691 of 2017

Smt. Subhra Biswas and ors.
Vs.
Shri Dhrubesh Biswas

Nobody appears on behalf of either of the parties on call. In spite of several opportunities were given to the petitioners, no one represented the petitioners, no accommodation sought for.

This is an application pending since 2017.

The petitioners being the wife, daughter and son of the opposite party/husband filed the instant application under section 401 read with section 482 of the Code of Criminal Procedure 1973 challenging the impugned order dated 26.04.2017 passed by the learned 4th Judicial Magistrate at Alipore, South 24 Parganas in Misc. Case No. 63 of 2016 (Shubhra Biswas Vs. Dhrubesh Biswas), thereby the learned Judicial Magistrate allowed a sum of Rs. 10,000/- per month each for her two children who are now residing with their mother as interim maintenance from the date of the said order.

The learned Judicial Magistrate further directed to the husband/opposite party to pay the said amount to the children through their mother by or on 5th day of each

succeeding British Calendar month and thereafter the said interim application has been disposed of.

It is the case of the petitioners that the petitioner/wife and her two children are residing separately due to extreme cruelty both in physical and mental torture inflicted upon the wife.

It is further contended that the petitioner /wife got a job of a teacher at Pailan World School, South 24 Parganas and the opposite party husband was not at all happy with the said job and due to pressurize by her husband she had to leave the said job.

Due to aggravated torture finally she had left the matrimonial home and lodged a complaint with the local police station. As she had no income to maintain her as well as her two children, she made an application for maintenance before the learned Judicial Magistrate, 4th Court, at Alipore, South 24 Parganas.

During pendency of the said maintenance application, learned Magistrate has taken up the said interim maintenance application for hearing, wherein the petitioner wife has, inter alia, prayed for interim maintenance for Rs. 40,000/- per month of herself and Rs. 15,000/- each per month for her two children from the opposite party/husband.

Learned Judicial Magistrate after considering the case of both the parties and written objection filed by the opposite party/husband, the learned Judicial Magistrate after invoking under Section 165 of the Evidence Act disposed of

the interim application by observing that she is an educated lady and having enough capacity to earn and she had income of her own, so interim maintenance with regard to the petitioners is rejected at the initial stage while considering the interim maintenance application.

However, the learned Judicial Magistrate had allowed Rs. 10,000/- each, per month for her two children, who are now residing with their mother, as interim maintenance from the date of the order.

In view of the above facts and circumstances, this case has come up before this court for disposal.

This case is pending since 2017. Despite of such pendency for a long period, no one represented on behalf of the petitioners.

Under such circumstances, this court finds that the petitioners are no more interested to proceed with the instant case. Accordingly, **CRR 1691 of 2017** is dismissed for non-prosecution.

Interim order, if any, stands vacated.

Let the order be communicated to the Ld. Court below for information.

Liberty is granted to all parties to act in terms of the copy of this order downloaded from the official website of this court.

Urgent Photostat certified copy of this order, if applied for, be supplied to the parties taking all legal formalities.

(Ajay Kumar Gupta, J.)