

10.04.2024
Sl.No. 73
Ct. 32
Amalranjan

In The High Court At Calcutta
Criminal Revisional Jurisdiction
Appellate Side

CRR 2413 of 2018

Santosh Kumar
Vs.
Puspa Joria

Nobody appears on behalf of either of the parties on call. Even on earlier occasion no one represented the petitioner. No accommodation sought for.

This case pertains to the year 2018.

The brief facts of the instant case is relevant for disposal of this case on merit considering the nature of prayer and to avoid further delay as the case is pending since 2018 and even given opportunity, no one represented the petitioner, no accommodation sought for.

By filing the present application under section 482 read with section 401 of the Criminal Procedure Code, 1973, the petitioner challenging the correctness, legality and perversity of the impugned order dated 03.08.2017 passed by the learned Judicial Magistrate, 1st Court, at Barrackpore, District - North 24 Parganas in connection with M.R. Case no. 781 of 2016 under section 125 of the Criminal Procedure Code, 1973.

The opposite party/wife is a legally married wife of the petitioner/husband and their marriage was solemnized according to the Hindu Rites and Customs on 5th May, 2005.

After the marriage the opposite party/wife went to her matrimonial home to lead conjugal life. But after expiry of 2-3 years of marriage, the husband and his relatives started torturing upon the opposite party/wife both physically and mentally due to born of two female child on 6.4.2006 and 12.4.2008 and the said torture has been grown up day by day and finally the husband also started assaulting her on several occasions. It is also alleged that the husband did not provide sufficient fooding, clothing and medicines, which makes her difficulty to stay in the matrimonial home. Even then she tried to stay at the matrimonial home but finally on 10.5.2010 the petitioner/husband assaulted her and driven out from her matrimonial house at Lucknow along with her two female child and having no other alternative she filed an application under section 125 of the Criminal Procedure Code before the learned ACJM, North 24 Parganas and thereafter the said case was transferred to the learned Judicial Magistrate, 1st Court, Barrackpore, North 24 Parganas. In such application she prayed for maintenance allowance for herself @ Rs. 7,000/- per month and Rs. 5,000/- per month each for two minor daughters in totaling Rs. 17,000/- per month, contending therein that the petitioner/husband is the employee of Kapoor Motors at Lucknow (U.P) and used to earn Rs. 25,000/- per month. He is neglected to maintain them.

After hearing the parties, the learned Magistrate finally allowed the maintenance allowances of Rs. 2,000/- per

month for wife and Rs. 3,000/- each per month for two minor children and further directed to pay the said amount by 15th day of every month as an interim maintenance.

Being aggrieved and dissatisfied with the said impugned order, the petitioner/husband filed this revisional application challenging the said order. Hence this revisional application has come up before this court for disposal.

Upon perusal of the revisional application and annexures thereto as well as the impugned order passed by the learned Magistrate this court finds there is no dispute that the opposite party/wife is not the wife of the petitioner. It is also not disputed that she is not residing separately and she has no her own independent income to maintain her and her two minor daughters. It is settled law that if there is no independent income of the wife then it is bounded duty of the husband to maintain his wife as well his children, as per his income as well as standard of living in the society. It is proved by the wife that the petitioner is working as a motor mechanic and used to earn Rs. 25,000/- per month. No contrary evidence brought on record by the petitioner/husband.

Under such circumstances, this court do not find any illegality or perversity in the impugned order. Furthermore, there is no error in jurisdiction or law.

Accordingly, the criminal revisional application is devoid of merit and requires no interference of the impugned order which is under challenge.

Under the above facts and circumstances, the instant revisional application being **CRR 2413 of 2018** is thus dismissed without any order as to costs.

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.)