

23.04.2024
Serial no.26
Aloke
Ct. No. 30

CRR 3017 of 2022

**Ankhi Nath
Vs.
Siddhartha Dutta & Anr.**

Mr. Mayukh Mukherjee
Ms. Afreen Begum
... for the petitioner

Ms. Sreeparna Das
Mr. Shubradip Roy
Ms. Ritu Das
... for the opposite party no. 1

Ms. Rita Datta
... for the State

The State has filed a report as directed. Let the same be taken on record.

On being served the opposite party no. 1 has appeared today.

The present revisional application has been preferred against the impugned order dated 08.07.2022 passed by the learned Judicial Magistrate, Bidhannagar, 24 Parganas North in M. Case No. 16 of 2020 under Section 125 Cr.P.C.

By the said order the learned Magistrate has allowed the prayer for interim maintenance in favour of the wife/petitioner but the same has passed from the date of the order, which is clearly not according to the guidelines of the Hon'ble Supreme Court in ***Rajnesh vs. Neha*** reported in **(2021) 2 SCC 324**.

Accordingly, the said order is modified to the extent that the said amount of interim maintenance shall be payable by the opposite party/husband **from the date of filing of the application.**

It is further submitted by the learned counsel for the petitioner that the opposite party/husband is not paying any interim maintenance.

On the other hand, the learned counsel for the opposite party submits that the opposite party is now not employed. It is also submitted by the learned counsel for the petitioner that the opposite party is employed with the merchant navy and his job involves a certain part of year being on the job and certain part of the year being on leave and, as such, as to whether the opposite party/husband prima facie being an able bodied person was on leave or otherwise is to be considered by the learned Trial Court.

It is further submitted that in spite of specific direction by the High Court, the learned Magistrate till date could not dispose of the Misc. Case finally.

Accordingly, the learned Magistrate is to dispose of the Misc. Case finally following the guidelines of the Hon'ble Supreme Court in ***Rajnish vs. Neha (Supra)*** within a period of **three months from the date of communication of this order.**

It is clarified that regarding the prayer for non-payment of interim maintenance by the opposite party, the petitioner is at liberty to apply before the learned Magistrate as per the appropriate provisions of law.

The present revisional application is accordingly disposed of.

All connected applications, if any, stand disposed of.

Interim order, if any, stands vacated.

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

(Shampa Dutt (Paul), J.)