

15.04.2024

Sl. No.: 38

Court No.30
BM

CRR 3631 of 2022

Smt. Anita Chakraborty

Vs.

Sri Aninda Chakraborty & Ors.

Mr. Ivan Roy

Mr. Debasish Biswas

... for the petitioner

Mr. Kamalesh Chandra Saha

Ms. Ankita Dey

... for the opposite parties

The present revisional application has been preferred against the judgment and order dated 11.08.2022 in connection with the Criminal Appeal No.20/2021 passed by the court of the learned Additional Sessions Judge, Fast Track, Third Court, Alipore, arising out of AC Case No.5377 of 2018 pending before the learned Judicial Magistrate, 10th Court at Alipore.

On hearing both the parties and on perusal of the materials on record, it appears that against an ex-parte order passed by the learned Judicial Magistrate, 10th Court, Alipore, an appeal was preferred by the husband/opposite party herein before the court of session.

Learned Session Judge vide the order under revision remanded the matter to the learned Magistrate for having the matter heard on contest by modifying the amount of monetary relief from Rs. 8,000 to Rs. 4,000/.

The learned Magistrate had directed the husband/opposite party herein to pay a sum of Rs.8,000/- per month as monetary relief to the petitioner no.1 and their minor son from the date of order and

also to arrange for an alternative accommodation, in default, to pay a sum of Rs.1,000/-, if she resides in a rented house.

It is admitted by the petitioner that she resides in her parent's house and as such prima facie she has not rented any house.

It also appears that the learned Magistrate was wrong to direct that the said interim monetary relief would be paid from the date of order as the Hon'ble Supreme court has held that such relief is to be granted from the date of filing.

It is submitted that the husband is a businessman by profession.

Learned counsel for the opposite party/husband has relied upon a judgment of ***Mr. Prakash Kumar Singhee vs. Ms. Amrapali Singhee passed in W.P No.3553 of 2018 by the Bombay High Court.***

On perusal of this judgment, this court finds that the facts and circumstances in the present case are a little different.

Accordingly, the present revisional application is disposed of with the following modification in the judgment under revision.

It is directed that the husband shall continue to pay a sum of Rs.8,000/- per month from the date of filing of the application before the trial court as this court of the view that a sum of Rs.4,000/- each for the wife and the son is the minimum that can be granted for their welfare at this stage.

The judgment and order dated 11.08.2022 in connection with the Criminal Appeal No.20/2021 passed by the court of the learned Additional Sessions Judge, Fast Track, Third Court, Alipore, arising out of AC Case No.5377 of 2018 pending before the learned Judicial Magistrate, 10th Court at Alipore, **is accordingly modified** and the matter is to be heard by the learned Magistrate, who shall dispose of

the same on hearing both sides and on complying with the guidelines of the Hon'ble Supreme Court passed in ***Rajnesh vs. Neha & Anr., (2021) 2 SCC 324***, expeditiously, without being influenced by the observations in this order.

The revisional application being CRR 3631 of 2022 is accordingly disposed of.

All applications, if any, connected thereto stand disposed of.

Interim order, if any, stands vacated.

Let a copy of the order be sent to the learned trial court for compliance.

Urgent Xerox certified copies of this order, if applied for, shall be supplied to the learned counsel for the parties as expeditiously as possible, in compliance of usual formalities.

(Shampa Dutt (Paul), J.)