

IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction
APPELLATE SIDE

Present:

The Hon'ble Justice Shampa Dutt (Paul)

CRR 3576 of 2023
with
CRAN 1 of 2024

Gopal Saha
Vs.
Rinki Saha & Anr.

For the Petitioner : Mr. Manas Kumar Barman,
Ms. Bina Baidya.

For the Opposite Party : Mr. Sujit Sankar Koley.

Hearing concluded on : 09.12.2024

Judgment on : 23.12.2024

SHAMPA DUTT (PAUL), J. :

1. The present revisional application has been preferred against an order dated 22nd June, 2023 passed by the learned Additional Sessions Judge, 1st Court, Sealdah, South 24 Parganas in Criminal Revision No.22 of 2018 arising out of an order dated 15.12.2017 passed by the learned Judicial Magistrate, 3rd Court, Sealdah, South 24 Parganas in M-7A of 2016.
2. The aforesaid orders are in respect of **interim maintenance** in a proceeding under Section 125 of the Code of Criminal Procedure.

The learned Magistrate by an order dated 12.12.2017 passed an order of **interim maintenance** granting an amount of Rs.2,000/- for the wife and Rs.2,000/- for the minor child. Being aggrieved, the wife preferred a revisional application before the learned Sessions Judge.

3. The learned Additional Sessions Judge, 1st Court, Sealdah, while disposing of the revisional application without considering the affidavits of assets and liabilities filed by the wife before the Court, on sending the same to the Court of the learned Magistrate enhanced the amount of maintenance to Rs.6,000/- for the wife and Rs.2,000/- as granted by the Magistrate was to remain for the child.
4. One of the contentions of the learned Counsel for the petitioner is that from the evidence recorded before the learned Magistrate, it will be evident that the wife had a showroom, namely, M/s. Athen Corporation at Barasat. It appears from the said further cross-examination on 28.11.2019 that her husband, the petitioner herein, was also with her in respect of the said showroom. It has been admitted by the wife that she did not share the income received from the showroom with her husband. A copy of an Income Tax Return filed shows the yearly income of the wife in the year 2012 as Rs.2,00,791/-.

5. It is now submitted by the learned counsel for the opposite party no.2 / wife that at present there is no existence of the said showroom and, as such, the wife has no income. She has denied having filed the GST for the year 2024-2025 in her further cross-examination on 20.07.2024.
6. This Court is of the view that the learned Additional Sessions Judge should have gone through the affidavits of assets and liabilities filed before the Court before sending it to the Trial Court in order to consider the prayer for enhancement. The learned Additional Sessions Judge only taking into consideration the present market value of articles enhanced the interim maintenance.
7. The order under revision is not a reasoned order and suffers from inherent defects and this Court has no other option but to set aside the said order the same being not in accordance with law.
8. **CRR 3576 of 2023 is allowed.**
9. The impugned order dated 22nd June, 2023 passed by the learned Additional Sessions Judge, 1st Court, Sealdah, South 24 Parganas in Criminal Revision No.22 of 2018 under revision **is hereby set aside.**

10. The order dated 15.12.2017 passed by the learned Judicial Magistrate, 3rd Court, Sealdah, South 24 Parganas in M-7A of 2016 is partly modified to the extent that pending disposal of the Misc case by the Magistrate, the petitioner herein shall pay interim maintenance, each month of Rs. 5000/- for the child and Rs. 3000/- for the wife.
11. The instant revisional application being **CRR 3576 of 2023** thus stands **disposed of** with a direction upon the learned Magistrate to dispose of the case expeditiously following the guidelines of the Hon'ble Supreme Court laid down in the case of ***Rajnesh vs. Neha & Anr.*** reported in **(2021) 2 SCC 324**.
12. All connected application, if any, stands disposed of.
13. Interim order, if any, stands vacated.
14. Let a copy of the Judgment be sent to the learned trial court at once.
15. Urgent Photostat certified copy of this judgment and order, if applied for, be supplied to the parties expeditiously after complying with all requisite formalities.

[Shampa Dutt (Paul), J.]