

13.11.2024
Sl.No. 42
Ct. 32
Amalranjan

In The High Court At Calcutta
Criminal Revisional Jurisdiction
Appellate Side

CRR 3372 of 2018

Sk. Sahid Amin
Vs.
Basira Amin and anr.

1. None appears on behalf of either of the parties on call, no accommodation sought for at the time of call.
2. This case pertains to the year 2018.
3. The petitioner, being the husband filed this application under section 401 read with section 482 of the Criminal Procedure Code, 1973, challenging the impugned order dated 28.09.2018 passed by the learned Judicial Magistrate, 3rd Court, Alipore in case no. ACM-387/2017 under section 125 Code of Criminal Procedure, 1973, thereby the learned Magistrate directed the petitioner/husband to pay a sum of Rs 6000/- per month to the wife/opposite party no. 1 herein as interim maintenance from the date of passing of the order and further directed the petitioner/husband to pay on/before the 10th day of each succeeding English Calendar month, failing which the

petitioner/husband will be at liberty to put this order into execution.

4. Considering the above facts and circumstances, the nature of prayer and long pendency of this case, record is taken up for the purpose of disposal of the instant case on merits.
5. The brief facts of the instant case, the opposite party no. 1/wife was legally married to the petitioner/husband and their marriage was solemnized on 01.05.2016 and the said marriage was also registered according to the Muslim rites and customs and thereafter she started residing at her matrimonial house. Due to continuous torture by the petitioner and her in laws upon her she made a complaint on 06.05.2017 before the Thakurpukur PS. Subsequently, she filed an application under section 125 of the Cr.P.C before the Judicial Magistrate, 3rd Court, Alipore praying for maintenance of Rs. 10,000/- for herself as interim maintenance and a litigation cost of Rs. 8,500/- from her husband.
6. The husband /petitioner contested the case and filed a written objection to the application, which was filed by the opposite party no. 1/wife herein. He stated that the opposite party no. 1/wife was suffering from acute mental

problems since 2012 long before her marriage which was totally suppressed by the opposite party no. 1. According to the petitioner, there had been quarrel between the wife and her in-laws and she had pressurized the petitioner to take separate accommodation. She also behaved in an unusual manner with the husband and his parents. Therefore, she is not entitled to get any maintenance from the petitioner herein. It is further contention of the petitioner that the opposite party no. 1 has purportedly lodged a false complaint at Thakurpukur PS being PS case no. 143/2017 dated 14.05.2017 under sections 498A/406/34 of IPC and sections 3 and 4 of the Dowry Prohibition Act which he termed as a fabricated story. As such, the petitioner approached this court by way of filing a criminal revisional application with a prayer to set aside the aforesaid impugned order passed by the Court below.

7. Upon perusal of the application and materials available in the record and the impugned judgment dated 28.09.2018, this court finds that both the petitioner/husband and the opposite party no. 1/wife herein are the husband and wife and their marriage was solemnized on 01.05.2016 and the said

marriage was also registered according to the Muslim rites and customs. After the marriage she started living at her matrimonial house. It is not disputed that she is not his wife. The allegation of the wife was regarding physical and mental torture by the petitioner as well as her in-laws and the said torture was progressively increased. She was compelled to reside at her father's house. She has no independent source of income to maintain herself. As such, she filed application under section 125 of the Cr.P.C.

8. After considering the case of the parties, the learned court below found there was a matrimonial discord between the parties and the wife was now residing separately in her father's house. Prama facie, she has no independent means to support herself rather the Petitioner is the Group D Railway Employee in Eastern Railway and his monthly earning was Rs 25,464/- as gross salary. It was ascertained by pay slip for the month of March, 2017.

9. In view of the facts that the opposite party/wife has no her own income to maintain herself. It is the obligation and bounden duty of the husband to maintain his wife, who has no

income of her own to maintain herself. There is no other impediment to allow the prayer of the Opposite party no.1. Considering the prima facie case and income of the husband the amount allowed by the learned Judicial Magistrate at the rate of Rs. 6000/- per month as interim maintenance from the date of passing of the order appears reasonable so that she can live with dignity similar to the standard of living she would have lived in her matrimonial home. Thus, revisional application has devoid of merit.

10. Under the above facts and circumstances, the instant revisional application being **CRR 3372 of 2018** is thus dismissed without order as to costs.
11. Connected application, if any, is thus disposed of.
12. Interim order, if any, stands vacated.
13. Let the order be communicated to the Ld. Court below for information.
14. All parties are to act in terms of the copy of this order downloaded from the official website of this court.

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

(Ajay Kumar Gupta, J.)