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2024
Ct. No. 237

C.R.R. 4514 of 2022
Najibullah Jamil
Vs.
The State of West Bengal & Anr.

Mr. .Milon Mukherjee
Mr. Satadru Lahiri
Mr. Safdar Azam
Mr. Syed Wasim Faruque

...For the Petitioner

Mr. Bijoy Adhikary
Mr. Sanjib Kumar
Ms. Nargish Parveen
Ms. Susmita Adhikary

...For the Opposite Party No. 2

IA No. CRAN 1 of 2024

Being aggrieved by and dis-satisfied with the order dated 18th October, 2022 passed by the learned Judicial Magistrate, 10th Court, Alipore, in connection with ACM Case No. 164 of 2022 under Section 125 of the Code of Criminal Procedure, the present application has been preferred.

By the order impugned learned Court below has directed the opposite party/ husband/petitioner herein to pay Rs. 30,000/- per month towards interim maintenance to the petitioner /wife/ opposite party herein and Rs. 20,000/- per month for each of the two minor children, totaling Rs. 70,000/- per month.

It is submitted on behalf of the petitioner/husband that the wife is well educated and she is unable to maintain herself by choice and as such she is not entitled to get maintenance. However, he is paying maintenance to both of his minor children. He further submits that from the affidavit of assets, it appears that the monthly income of

the husband is Rs. 46,275/- and his monthly expenditure is Rs. 44,000/-, accordingly the order impugned is not justified.

Learned Counsel appearing on behalf of the wife/opposite party herein submits that the husband/petitioner is a Doctor having qualification of M.D. in Radiology and presently working in various diagnostic centre and earns Rs. 5,00,000/- per month in aggregate. He further submits that it is well settled, even if the wife is well educated still she is entitled to get maintenance, if she can establish that she is unable to maintain herself.

Upon hearing the learned Counsel appearing on behalf of the parties it appears that present application has been preferred against an order of interim maintenance which was passed in the year 2022 and since then it is pending.

It would be just repetition to remind that section 125 of Cr.P.C. has been enacted by the legislature as a measure of social justice to achieve the constitutional sweep mandated in Article 15(3) read with Article 39 of the Constitution of India and such provisions prescribes for a summary procedure and must not be kept pending for an indefinite period to determine right and liabilities of the parties as it happens in large number of civil cases.

In such view of the matter, the present application, being CRR 4514 of 2022 is hereby disposed of with a direction upon the Court below to dispose of the main application filed under Section 125 of the

Code of Criminal Procedure at the earliest preferably within a period of six months from the date of communication of this order without granting any unnecessary adjournment to either of the parties.

However, the petitioner herein shall go on paying an amount of Rs. 20,000/- to each child and Rs. 15,000/- to the opposite party/wife totalling Rs. 55,000/- per month, till disposal of the main application under Section 125 of the Code of Criminal Procedure by the Court below.

I made it clear that I have not gone into the merits of the present dispute and the trial court will dispose of the same without being influenced by any observation made herein.

Consequently the application, being IA No. CRAN 1 of 2024 is also disposed of.

Urgent Photostat certified copy of this order, if applied for, be given to the parties, on priority basis, upon compliance of all necessary formalities.

(Ajoy Kumar Mukherjee, J.)