

05.03.2024
Serial no. 95
[G.S.D]

CRR 4705 of 2023

In the matter of : Somnath Barat

... .. Petitioner

Mr. Satya Narayan Kundu
Mr. S. S. Sharma

... for the petitioner

Mr. Kunal Ganguly

... for the respondent no.1

The Id. Advocate appearing for the petitioner prays for interference with the judgment and order dt. 19.9.2023 passed by the Addl. Sessions Judge, 4th Court, Suri, Birbhum in Criminal Revision No. 36 of 2022, wherein the Id. Sessions Court allowed the Criminal Revisional Application and directed the present petitioner being the husband to pay a sum of Rs.4,000/- per month by way of interim maintenance from the date of the order i.e. 29.8.2022 till disposal of the Misc. Case No. 34 of 2021.

I have considered the issues so canvassed before the Id. JM, Dubrajpur, Birbhum in Misc. Case No. 34 of 2021, wherein the Id. JM, Dubrajpur, Birbhum refused to grant any interim maintenance.

So far as the provisions of Section 125 of the cr.p.c. is concerned, the same was enacted keeping in view the

provisions of Article 15(3) of the Constitution of India and the concept of social justice along with preventing vagrancy as embedded within the provisions of Chapter IX of the cr.p.c. At the stage of consideration of interim maintenance, the duty of a court of law is not to proceed and search for strict proof of evidence, which is required to be done before arriving at a final decision in the case. The court at this stage is to ascertain how the lady would maintain herself during the pendency of the main application under section 125 of the cr.p.c.

On an assessment of the reasoning so assigned by the Id. Magistrate, I also found that there are contradictory issues which the Id. Magistrate has accepted to be sacrosanct. On the one hand, she has been said to be a patient suffering from neurological problems, while on the other hand, it has been accepted that she earns around Rs.20,000/- from private tuition.

The Id. Magistrate wholly disbelieved the version of the lady and, in fact, gave the finding that without any reasonable cause, she was staying separately and, as such, she was not entitled to any maintenance.

It was incumbent upon the Id. Magistrate to take into consideration that a proceeding under section 498A of the IPC was pending, which would add to the spirit of Section 125 of the Cr.p.c. that the lady was subject to some kind of

cruelty, obviously, subject to evidence which would be adduced by the parties at the time of trial of the case.

The finding that without any obvious reason, the lady, on her own accord, was staying separately, is not acceptable to this court and, to that effect, the finding of the Id. Sessions Judge while exercising its revisional jurisdiction seems to be more in consonance with the law as laid down by the legislature.

Having regard to the reasons so assigned by the Id. Sessions Judge while arriving at its finding of allowing the interim maintenance as well as the quantum of award, I am of the view that the same do not call for any interference.

With the aforesaid observations, CRR 4705 of 2023 is dismissed.

Pending application, if any, is also disposed of.

Parties to act on a server copy of this order duly collected from the official website of the Hon'ble High Court, Calcutta.

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

(Tirthankar Ghosh, J.)