

11-11-2024
Court No.3
Sl. No. 13
T.Ojha

**In The High Court At Calcutta
Circuit Bench At Jalpaiguri**

CO/147/2024

**MUSTAFIZUR RAHAMAN
VS
SABINA KHATUN AND ANR.**

Mr. Kunaljit Bhattacharjee, Adv.
Mr. Alok Sah, Adv.

...for the petitioner

Mr. Satyaki Basu, Adv.

...for the opposite parties

The instant application is filed against the Order No. 6 dated 20.07.2024 passed by the Learned Additional District Judge, 4th Court, Jalpaiguri in Misc. Case No. 7 of 2024 in connection with Matrimonial Suit No. 1 of 2021.

The Trial Court, while considering an application under Section 36 of Special Marriage Act was pleased to pass an order directing the petitioner husband to pay a sum of Rs.10,000/- per month to the wife and Rs.20,000/- per month to the minor son towards maintenance pendenti lite. At the same time, the present petitioner was directed to pay a sum of Rs.5,000/- as cost of litigation.

A consequential order was passed whereby Superintendent of Police, Islampur Police District was directed to deduct the aforesaid sum of money from the salary of the present petitioner husband and transfer the same to the Bank account of the respondent wife.

On perusal of the impugned order it appears that the Trial Court considered the salary of the petitioner as Rs.45,588/- per month. The present petitioner husband has been paying maintenance under Section 125 of Cr.P.C. at a rate of Rs.3,000/- per month to the wife and Rs.7,000/- per month to the minor son. This is also in the impugned order. As appears from the order sheet that the petitioner is saddled with financial liability to pay Rs.3,000/- plus Rs.10,000/- per month to the wife and Rs.7,000/- and Rs.20,000/- to the minor son whereas the monthly salary of the present petitioner is Rs.45,588/-. The Learned Trial Court possibly missed to notice the entire financial liability in the context of the earning.

The Learned Counsel for the respondents submitted that gross salary of the petitioner husband is about Rs.67,000/- per month but there is no reflection of that in the order sheet.

On hearing both the Learned Counsels, this application is disposed of with a direction to the Trial Court to reconsider the impugned order after hearing afresh and dispose of the same within a period of one month from receiving the copy of this order without any undue adjournment. A copy of this order may be immediately communicated.

Quantum of maintenance payable under Section 36 of the Special Marriage Act, however, should not be stopped at present but may be adjusted subject to final outcome of the application.

(SUGATO MAJUMDAR, J.)