

IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
Appellate Side

Present:

The Hon'ble Justice Ajay Kumar Gupta

C.R.R. 1610 of 2024

With

CRAN 1 of 2024

Ankit Agarwal

Versus

Nidhi Jindal

For the Petitioner : Mr. Sabyasachi Banerjee, Ld. Sr. Adv.
Mr. Anirban Dutta, Adv.
Ms. Minal Palana, Adv.

For the Opposite Party : Mr. Francis Samson Correa, Adv.
Ms. Sneha Singh, Adv.
Mr. Rajat Singh, Adv.

Heard on : 11.12.2024

Judgment on : 19.02.2025

Ajay Kumar Gupta, J:

1. Petitioner/husband of the opposite party has preferred this Criminal Revisional application under Section 482 of the Code of Criminal Procedure, 1973 (hereinafter referred to as 'CrPC') challenging the Impugned Judgment and Order dated 21.03.2024 passed by the Learned Additional District and Sessions Judge, Fast Track, 3rd Court, Howrah in Criminal Revision No. 15 of 2023 thereby the said criminal revision was dismissed and affirmed the Order dated 25.01.2023 passed by the Learned Judicial Magistrate, 2nd Court, Howrah in Misc. Case No. 464 of 2021.

2. By the said Order dated 25.01.2023, the Learned Judicial Magistrate has allowed interim maintenance to the tune of Rs. 50,000/- per month payable by the petitioner to the opposite party from the date of filing of the application under Section 125 of the CrPC.

3. The brief facts of the case of the petitioner are that on 29.01.2020, he married with the opposite party as per Hindu Rites and Customs at Indore and started their conjugal life at the matrimonial home situated at Indore. Their marriage was consummated. After few days of marriage, the opposite party/wife started misbehaving with him and in-laws over trivial issues and

always refused to co-operate with the petitioner though the petitioner always tried to keep her happy and also adjusted according to her wishes.

4. During their conjugal life, the opposite party started abusing the petitioner and his family members with filthy languages in presence of others and also inflicted mental torture upon the petitioner in various ways and gestures.

5. The torture was increased day by day and finally, the opposite party threatened the petitioner to leave her matrimonial home. However, on 12.11.2020, the opposite party herself left the petitioner's house and started living at her parental home. On many occasions, the petitioner requested her to come back to lead conjugal life peacefully at matrimonial home but she never responded to the requests of the petitioner.

6. The opposite party, however, lodged a false and fabricated case being Belur Police Station Case No. 75 of 2021 dated 12.04.2021 under Sections 498A/406/323/120B of the Indian Penal Code, 1860 and Sections 3/4 of the Dowry Prohibition Act against the petitioner and his family members without explaining delay.

7. At the same time, the opposite party filed an application under Section 125 of the CrPC being Misc. Case No. 464 of 2021

before the Learned Judicial Magistrate, 2nd Court, Howrah praying maintenance to the tune of Rs. 1,80,000/- per month for herself with litigation cost of Rs. 20,000/-. The opposite party also filed an application for interim maintenance praying for an interim maintenance to the tune of Rs. 1,50,000/- per month from the date of filing of the said application with a contention that she has no her sufficient income to maintain herself.

8. The petitioner appeared in the proceedings through his learned advocate and had filed a written objection denying all the allegations made by the opposite party against the petitioner and other in-laws and further filed affidavit disclosing his income, assets and liabilities before the Learned Court below for fair and proper disposal of the application for maintenance.

9. At the same time, the opposite party also filed affidavit of her assets and liabilities in the said proceedings. However, the opposite party had deliberately suppressed materials facts in her affidavit of assets and liabilities. She did not make full and fair disclosure of her income, expenditure and assets in order to obtain favourable maintenance amount though she had her own sufficient income and investments in shares to maintain herself.

10. She also not disclosed the actual fact of her own actual income. She projected herself to be unemployed, however, the profit and loss statement for the year ending 31st March, 2021 indicates the professional fees received as Rs. 95,000/- approx. As such, only on such ground of suppression of facts and not come with clean hands before the Court, her application should have been dismissed by the learned Court below.

11. The Learned Magistrate failed to consider the fact of suppression of material facts and surreptitiously passed an impugned order allowing her interim maintenance to the tune of Rs. 50,000/- per month from the date of filing of the application vide order dated 25.01.2023.

12. The said impugned order was assailed after being aggrieved before the Learned District and Sessions Judge, Howrah by way of Revisional application being Criminal Revision No. 15 of 2023 and the same was transferred to the Learned Additional District and Sessions Judge, Fast Track, 3rd Court, Howrah for its disposal.

13. After hearing the parties, the Learned Judge dismissed the said Revisional application and affirmed the impugned Order dated 25.01.2023. According to the petitioner, the impugned judgment and order is unjustified, disproportionate and improper appreciation of

materials on record. Hence, the impugned judgment and order passed by both the Learned Courts below are bad in law and are liable to be set aside. Hence, the present Criminal Revisional application.

14. Both the parties admittedly had filed their affidavits of disclosures of assets and liabilities before the Learned Trial Court. However, allegation of the petitioner/husband in the present Revisional application is that the disclosure of assets and liabilities, filed by the opposite party/wife was wholly suppression of material facts. The opposite party has grossly misrepresented and suppressed the material facts of her own income and assets to obtain a favourable order in mala fide manner. Both the Learned Trial Court and the Revisional Court did not consider the case of the petitioner and after ignoring the contention of the petitioner allowed a sum of Rs. 50,000/= as interim maintenance from the date of filing application in favour of the Opposite party though she has sufficient income, shares and assets to maintain herself. She is actually not at all entitled to get maintenance from the petitioner herein.

15. This Court has directed the parties to file their affidavits of disclosure of assets and liabilities for fair and proper adjudication of this case in view of judgment passed by the Hon'ble Supreme Court

in ***Rajnish Vs. Neha and Another***¹ whereby the Hon'ble Supreme Court framed uniform and consistent standard guidelines for ensuring timely disposal of the application seeking maintenance under all the applicable statutes. In view of the aforesaid judgment, the Hon'ble Supreme Court has directed the parties to file their affidavits of disclosure of assets and liabilities annexed as enclosures I, II and III of the said judgment, as may be applicable, shall be filed by both the parties in all maintenance proceedings, including pending proceedings before the Family Courts, District Courts, Magistrate Courts concerned, as the case may be, throughout the country. So, that the court or tribunal may considered and assessed the entire facts of income, liabilities, assets, earning capacity and living status of the parties to come to conclusion to allow the prayer of the parties with regards to the maintenance.

16. Both parties have filed their respective affidavit of disclosure of assets and liabilities and also disclosed their actual income etc.

17. Considering the arguments and submissions made by both the parties as well as upon perusal of the affidavits of assets and liabilities, filed by the parties, this Court finds it is admitted fact that the marriage was solemnized on 29.01.2020 at Indore according to

¹ (2021) 2 SCC 324

Hindu Rites and Customs. Due to matrimonial discord, they are now living separately. The opposite party takes shelter at the parental home on and from 11.11.2020. The opposite party was allowed a sum of Rs. 50,000/- as interim maintenance from the date of filing of the application of interim maintenance to be paid by the husband/petitioner.

18. This Court has to consider the affidavits filed by both the parties, so that it would be easier for this Court to decide the matter for assessment of the quantum of interim maintenance on the basis of disclosures of income, assets and liabilities etc. of the parties.

19. So far as the opposite party (Nidhi Jindal) is concerned, she has filed three different affidavits on the same date disclosing her educational and professional qualification, income, expenses, assets, liabilities and others in details is set out herein below: -

NIDHI JINDAL (WIFE OF THE PETITIONER/OPPOSITE PARTY)

AFFIDAVIT SL NO. 28/2024	AFFIDAVIT SL NO. 29/2024	AFFIDAVIT SL NO. 30/2024
NAME:- NIDHI JINDAL W/O- ANKIT AGRAWAL D/O- RAJ KUMAR JINDAL	NAME:- NIDHI JINDAL W/O- ANKIT AGRAWAL D/O- RAJ KUMAR JINDAL	NAME:- NIDHI JINDAL W/O- ANKIT AGRAWAL D/O- RAJ KUMAR JINDAL

RESIDENCE:- FORUM PRAVESH, BLOCK- H FLAT- 701. 212 GIRISH GHOSH ROAD POLICE STATION- BELUR, HOWRAH 711202 & 359/1 SADA SHIV MUDALAIR ROAD 2ND SQUARE 7TH CROSS MURPHY TOWN ULSOUR BANGALORE- 560042	RESIDENCE:- FORUM PRAVESH, BLOCK- H FLAT- 701. 212 GIRISH GHOSH ROAD POLICE STATION- BELUR, HOWRAH 711202	RESIDENCE:- FORUM PRAVESH, BLOCK- H FLAT- 701. 212 GIRISH GHOSH ROAD POLICE STATION- BELUR, HOWRAH 711202
QUALIFICATION:- CHARTERED ACCOUNTANT	QUALIFICATION:- CHARTERED ACCOUNTANT	QUALIFICATION:- CHARTERED ACCOUNTANT
GENERAL MONTHLY EXPENSES:- Rs. 1,70,000/-	GENERAL MONTHLY EXPENSES:- Rs. 1,80,000/-	GENERAL MONTHLY EXPENSES:- Rs. 1,00,000/- per month
EMPLOYED AT:- GPZ CONSULTING (INDIA) PVT. LTD	EMPLOYED AT:- UNEMPLOYED GIVING HOME TUITION	EMPLOYED AT:- UNEMPLOYED
INCOME:- Rs. 1,75,000/-	INCOME:- Rs.10,000/-- Rs.18,000/-	INCOME: - NA

20. Petitioner has also filed affidavit disclosing his educational and professional qualifications, income, expenses, assets, liabilities and other in details is also set out herein below: -

“ANKIT AGARWAL (PETITIONER OF THE CASE)

Occupation- Service;

Education-B.E in computer science;

Residence- Indore

Monthly expenses- Rs. 60,000/- (including legal expenses); Maintenance provided to wife- Rs. 50,000/- per month;

Dependants- Mother (suffering from high blood pressure);

Mother's expenditure- Rs. 60,000/-;

Monthly income of the petitioner – Rs. 2,00,000/-;

Designation of the petitioner-Staff Software Engineer;

Employment of the petitioner-name of the company-Nagarro Enterprise Services Private Limited, located at Indore;

Salary as per the Salary Slip of the petitioner-Rs. 1,93,669/-.

INVESTMENT AND POLICIES OF THE PETITIONER

1. LIC INDIA:- Sum assured- Rs. 5,00,000/-

2. HDFC LIFE:- Sum assured- Rs. 10,00,000/-

3. HDFC TERM:-Rs. 1,00,00,000/-.

SHARES OF RELIANCE COMMUNICATION:-Rs.
11500/-

SHARES OF VODAFONE IDEA:- Rs. 1000/-
AXISMUTUALSIP

JEWELLERY AND ORNAMENTS

2 GOLD COINS

2 GOLD CHAIN

1 GOLD BRACELET

2 GOLD RINGS

1 PLATINUM RING

(ABOVE MENTIONED JEWELLERY & ORNAMENTS
WERE TAKEN BY THE WIFE)

ASSETS OF THE PETITIONER

1. NO ASSETS SUCH AS LAND AND BUILDINGS,
MACHINERY OWNED BY THE PETITIONER

2. NO OWNED PROPERTIES,

3. NO SELF ACQUIRED PROPERTY,

4. NO PROPERTY OWNED BY THE PETITIONER
AND OPPOSITE PARTY JOINTLY,

5. NO ANCESTRAL PROPERTY OWNED BY THE
PETITIONER

LIABILITIES OF THE PETITIONER

1. NO LOANS, LIABILITIES, MORTGAGES OR
CHARGE OUTSTANDING

2. NO EMIs BEING PAID
3. NO INCURRING LIABILITY
4. NO AMOUNT BORROWED TILL FILLING OF THE AFFIDAVIT
5. NO CUR RENT LIABILITIES”

21. Upon careful perusal of both sides’ affidavits, it appears, the Opposite Party (Wife) has filed three affidavits on the same day without assigning any reasons in pursuant to this court’s order only to mislead and/or to misrepresent this court to obtain favourable order.

22. It reveals from those affidavits that she has disclosed herself as unemployed in one affidavit. It is also disclosed that she earns Rs. 10,000/= to Rs. 18,000/= as her monthly income from Home Tuition in another affidavit and finally her income disclosed as Rs. 1,75,000/= per month from GPZ Consulting (India) Pvt. Ltd in the third affidavit.

23. She disclosed her total General monthly expenses to the tune of Rs.1,70,000/= per month in first affidavit. (i.e. under the head of legal expenses Rs. 45,000/-, Medical expenses Rs. 10,000/-, education expenses Rs. 10,000/-, Travelling expenses Rs. 40,000/-

(including interstate), House rent and other utilities Rs. 30,000/-, Fooding Expenses 20,000/-, Miscellaneous expenses Rs. 15,000/-).

In second affidavit, she disclosed her General monthly expenses as Rs. 1,80,000/= per month (i.e. under the head of legal expenses Rs. 45,000/-, Medical expenses Rs. 10,000/-, education expenses Rs. 20,000/-, Travelling expenses Rs. 50,000/-, House rent Rs. 30,000/-, Fooding Expenses 20,000/-, Other expenses Rs. 5,000/-) and

In third affidavit, she disclosed her General monthly expenses as Rs. 1,00,000/= (for rent, household expenses, medical bills, transportation etc).

24. According to her own affidavits, she earns Rs. 1,75,000/= per month from GPZ Consulting (India) Pvt. Ltd. and income of Rs. 10,000/= to Rs. 18,000/- per month from Home Tuition, it comes total income to Rs. 1, 85,000/= to Rs. 1,93,000/- per month.

25. Apart from that, she has 10.4% shares in Forway Pipes Pvt. Ltd. as disclosed by the Petitioner. Same has neither been disputed nor denied by the opposite party. Therefore, she even earns some amount from the shares.

26. On the other hands, income of the Petitioner/husband is Rs. 1,93,669/= per month from Nagarro Enterprise Services Private Limited and he has some shares.

27. Considering the overall facts and circumstances, this Court is of the view that the opposite party had suppressed the material facts before both the Learned Courts below. She also filed three affidavits and reasons best known to her why she has filed three affidavits on the same day but it seems those three affidavits are only to misrepresent or misleading the Court to obtain favourable order. She even does not come with clean hands and suppressed the actual facts.

28. It always expects that the litigants must come before the court for their grievances, whatsoever, with clean hands and put forward all the facts before the court without concealing or suppressing anything and seek relief. If there is no candid disclosure of relevant and material facts or the party is guilty of misleading the Court, his prayer may be rejected/dismissed at the threshold without considering the merits of the claim.

29. If the applicant makes a false statement or suppresses material facts or attempt to mislead the court, the court may reject/dismiss the action on that ground alone and may refuse to

enter into the merits of the case by stating “court will not be listening to the contention of the party because of what he/she has done”.

30. The rule has been evolved in the large public interest to deter unscrupulous litigants from abusing the process of court by deceiving it. To reject the prayer of the Opposite party praying for interim maintenance, this court relies a judgment passed in the case of **K.D. Sharma v. Steel Authority of India and Others**² where the Hon’ble Court observed as follows:

“an applicant who does not come with candid facts and “clean breast” cannot hold a writ of the court with “soiled hands”. Suppression or concealment of material facts is not an advocacy. It is a jugglery, manipulation, manoeuvring or misrepresentation, which has no place in equitable and prerogative jurisdiction. If the applicant does not disclose all the material facts fairly and truly but states them in a distorted manner and misleads the court, the court has inherent power in order to protect itself and to prevent an abuse of its process to discharge the rule nisi and refuse to proceed further with the examination of the case on merits. If the court does not reject the petition on that ground, the court would be failing in its duty. In fact, such an applicant

² (2008) 12 SCC 481]

requires to be dealt with for contempt of court for abusing the process of the court.”

(emphasis supplied)

This Court further relies another Judgment passed in the case of **Moti Lal Songara v. Prem Prakash @ Pappu and Another**³ where the Hon’ble Supreme Court, considering the issue regarding concealment of facts before the Court, observed that “court is not a laboratory where children come to play” and further opined as under:-

“19. The second limb of the submission is whether in the obtaining factual matrix, the order passed by the High Court discharging the respondent-accused is justified in law. We have clearly stated that though the respondent was fully aware about the fact that charges had been framed against him by the learned trial Judge, yet he did not bring the same to the notice of the Revisional Court hearing the revision against the order taking cognizance. It is a clear case of suppression. It was within the special knowledge of the accused. Anyone who takes recourse to method of suppression in a court of law, is, in actuality, playing fraud upon the court, and the maxim suppressio veri, expressio falsi i.e. suppression of the truth is equivalent to the expression of falsehood, gets attracted. We are compelled to say so as there has

³ (2013) 9 SCC 199 : (2013) 3 SCC (Cri) 872

been a calculated concealment of the fact before the Revisional Court. It can be stated with certitude that the respondent-accused tried to gain advantage by such factual suppression. The fraudulent intention is writ large. In fact, he has shown his courage of ignorance and tried to play possum.

20. The High Court, as we have seen, applied the principle “when infrastructure collapses, the superstructure is bound to collapse”. However, as the order has been obtained by practising fraud and suppressing material fact before a court of law to gain advantage, the said order cannot be allowed to stand.”

(emphasis supplied)

31. The ratios, as above, decided by the Hon’ble Courts are squarely applicable in the present facts and circumstances of this instant case.

32. The opposite party/wife has not only suppressed all material facts before the Courts below but also tried to mislead this Court. She does not come with clean hands, as such, she is not entitled to get interim maintenance as prayed for.

33. In addition, she is well educated and earning more than her actual general expenses. She is well capable to maintain herself with her own income. She can also maintain the same standard of living

as similar as her husband's status because her earning is more or less similar and sufficient.

34. Consequently, **CRR 1610 of 2024** is, thus, **allowed**. Connected application being **CRAN 1 of 2024** is also, thus, disposed of.

35. Impugned Judgment and Order dated 21.03.2024 passed by the Learned Additional District and Sessions Judge, Fast Track, 3rd Court, Howrah in Criminal Revision No. 15 of 2023 and the Order dated 25.01.2023 passed by the Learned Judicial Magistrate, 2nd Court, Howrah in Misc. Case No. 464 of 2021 is hereby set aside to prevent miscarriage of justice. The opposite party/wife is not entitled to get interim maintenance at this stage. However, the learned Trial Court is directed to dispose of the application filed under Section 125 of the CrPC as expeditiously as possible, if not already disposed of, in accordance with law independently and without being influenced with the observations as made hereinabove.

36. Let a copy of this Judgment be sent to the Learned Court below for information.

37. Interim order, if any, stands vacated.

38. Parties shall act on the server copies of this Judgment uploaded on the website of this Court.

39. Urgent photostat certified copy of this Judgment, if applied for, is to be given as expeditiously to the parties on compliance of all legal formalities.

(Ajay Kumar Gupta, J)

P. Adak (P.A.)