

CRR 2144 of 2024

Debanjan Ghosh
Vs.
Smt. Mousumi Ghosh & ors.

Adv. Kamal Krishna Pathak,
Adv. Souvik Majie,
Adv. Kaustav Seal,

...for the petitioner.

Affidavit of service filed on behalf of the petitioner is taken on record.

The opposite party is not represented despite service.

The petitioner has assailed the order passed by the learned Judge, Special Court-cum-Additional Sessions Judge, Durgapur, District Paschim Bardhaman on 14th March, 2024 in Criminal Motion no. 24 of 2018 affirming the judgment and order dated 10th September, 2018 passed by the learned Judicial Magistrate, 2nd Court, Durgapur in Misc. case no. 304 of 2013. By the said order, the learned Magistrate has directed the petitioner to pay interim maintenance to the tune of Rs.4000/- per month to the opposite party till disposal of the Misc. case. Misc. case is still pending.

Learned counsel for the petitioner takes this Court to the judgment delivered by the learned Additional District Judge, Nabadwip, Nadia on 18th September, 2023 in MAT suit no. 82 of 2014 whereby the learned Judge has declared the marriage between the parties to be null and void in terms of Section 12 of the Hindu Marriage Act, 1955. Learned counsel submits that despite such judgment, the learned revisional Court has affirmed the order passed by the learned Magistrate directing payment of interim maintenance in favour of the opposite party.

It appears that vide judgment delivered on 18th September, 2023 in MAT suit no. 18 of 2024 the marriage between the parties has been declared null and void. It is trite law that legally married wife of a person is entitled to interim maintenance or for that matter, maintenance from the husband. Since the marriage between the parties has been declared null and void by a competent Court of law and the said judgment has not been assailed till date as submitted by the learned counsel for the petitioner, the petitioner is under no obligation to pay maintenance/interim maintenance to the opposite party under Section 125 of the Code of Criminal Procedure.

In view of the above, this Court is inclined to hold that the order impugned dated 14th March, 2024 passed by the learned Judge, Special Court-cum-Additional Sessions Judge, Durgapur in Criminal Motion no. 24 of 2018 as well as the judgment and order dated 10th September, 2018 passed by the learned Judicial Magistrate, 2nd Court, Durgapur in Misc. case no. 304 of 2013 is required to be quashed/set aside.

In the result, the revisional application being CRR 2144 of 2024 is allowed.

The order passed by the learned Judge, Special Court-cum-Additional Sessions Judge, Durgapur, District Paschim Bardhaman on 14th March, 2024 in Criminal Motion no. 24 of 2018 and the judgment and order dated 10th September, 2018 passed by the learned Judicial Magistrate, 2nd Court, Durgapur in Misc. case no. 304 of 2013 be set aside/quashed.

Urgent certified website copy of this order, if applied for, be given to the parties, upon compliance with all requisite formalities.

(Suvra Ghosh, J.)