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03.03.2025
Court No.6
BP

C.O. 2459 of 2024
With
CAN 1 of 2024
CAN 2 of 2025

Labani @ Laboni Karmakar
Vs.
Goutam Karmakar

Mr. Shibaji Kumar Das
... for the petitioner

Mr. Supriyo Chattopadhyay
Mr. Sudip Kumar Maiti
Ms. Debosree Chatterjee
..for the opposite party

Though this application is appearing under the heading “Extension of Interim Order” but with the consent of the learned advocates for the respective parties, the main civil revisional application is taken up for hearing.

This application under Article 227 of the Constitution of India is at the instance of the wife in a suit for dissolution of marriage under the Hindu Marriage Act and is directed against an order being no. 44 dated 5th June, 2024 passed by the learned Additional District Judge, Fast track Court No. II, Barrackpore, North 24 Parganas in Matrimonial Suit No. 1500 of 2016. By the order impugned the learned trial judge allowed the application under Section 24 of the Hindu Marriage Act in part on

contest without cost thereby directing the opposite party husband to pay a sum of Rs. 6,000/- per month for the maintenance of her wife and Rs. 12,000/- as litigation cost with effect from the date of the said order within the time limit as mentioned in the said order.

Learned advocate appearing the petitioner submits that the learned trial judge without appreciating that the gross income of the husband/opposite party herein is Rs. 55,000/- and odd, fixed the alimony at Rs. 6,000/- which is not commensurate with the standards which has been set by various decisions of this Court as well as the Hon'ble Supreme Court.

Per contra, the learned advocate appearing for the opposite party submits that in connection with a proceeding under Section 125 of the Criminal Procedure Code the learned Judicial Magistrate , 2nd Court, Barasat passed an order on 14th September, 2018 in M. Case No. 24 of 2014 directing Rs. 7,000/- per month to be paid by the husband to the wife. He further submits that the wife challenged the said order by filing a criminal revision being no. 406 of 2018 and the learned Additional District and Sessions Judge, 3rd Court, Barrackpore by a judgement dated 28th January, 2021 directed the husband to pay a sum of Rs. 9,000/- per month as

maintenance allowance to the wife according to the English Calendar month with effect from the date of order dated 14th September, 2018 passed by the learned Judicial Magistrate, 2nd Court at Barrackpore in M. Case No. 24 of 2014.

On a query of the Court learned advocate appearing for the petitioner submits that the husband/opposite party herein is regularly paying a sum of Rs. 9,000/- per month as maintenance allowance in terms of the order dated 28th January, 2021 passed by the learned Additional District Judge, 3rd Court at Barrackpore. He further submits that the opposite party herein has not paid the litigation cost as directed by the learned trial judge by the order impugned.

Law allows the wife to apply for maintenance under the provisions of different statutes. In the case on hand, petitioner applied for maintenance under the relevant provisions of the Criminal Procedure Code and also prayed for alimony under the relevant provisions of the Hindu Marriage Act.

It is well settled that the amount of alimony that the husband has to pay to the wife under the provisions of Section 24 of the Hindu Marriage Act can vary from 1/3rd to 1/5th. If the said formula is applied, the amount of alimony on the net salary of the petitioner after allowing statutory deduction

from the gross salary at the rate of 1/5th comes to Rs. 9,000/-. Since the petitioner is getting maintenance of Rs. 9,000/- pursuant to an order passed in the criminal revision, this Court is not inclined to interfere with the amount fixed by the learned trial judge as alimony pendente lite.

The learned advocate appearing for the petitioner submits that litigation cost as directed by the learned trial judge by the order impugned has not been paid. The opposite party herein is directed to pay the litigation cost to the petitioner wife within a period of two weeks from date, if not already paid.

With the above observations and directions, C.O. 2459 of 2024 stands disposed of.

In view of the order passed in main civil revisional application, the applications being CAN 1 of 2024 and CAN 2 of 2025 stand disposed of.

No order as to costs.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Hiranmay Bhattacharyya, J.)