

IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
APPELLATE SIDE

CRR 3082 of 2024

Kushal Baid
Vs.
Swati Baid nee Sureka

Mr. Subrata Ghosh
... For the petitioner

Mr. Swagata Datta
Ms. Ankita Dey
Ms. Trenesha Chandra
... For the opposite party

1. The instant revisional application has been filed assailing an order dated 14th May, 2024 passed in connection with ACM Case No.83 of 2023 wherein the learned Judicial Magistrate, 1st Court at Alipore, South 24-Parganas, took all the facts and circumstances advanced by the parties to the case into consideration and passed an order of interim maintenance to the tune of Rs.18,000/- per mensem, directing the opposite party/husband to pay the same to the petitioner/wife by 10th day of every month as per English Calendar with effect from the date of filing of the application.

2. Learned Magistrate considered the income of the opposite party stated in the affidavit of assets and that of the petitioner. In fact, the learned Magistrate considered the respective affidavit of assets filed by the parties as well as the relationship between the parties before passing the order of interim maintenance which is assailed in this revisional application.

3. Mr. Subrata Ghosh, learned counsel appearing on behalf of the petitioner has submitted that the husband/petitioner herein has hardly any capacity to pay interim maintenance to the tune of Rs.18,000/- per mensem because of his responsibility to maintain his own family members and accordingly he prays for reducing the amount of interim maintenance.

4. In opposition to that, Ms. Ankita Dey, learned counsel appearing on behalf of the opposite party/wife has submitted that the learned Magistrate has rightly passed the order in terms of the income of the opposite party/husband while there was no denial of relationship of husband and wife between the parties.

5. It is not disputed that the parties to this revisional application are married couple and the petitioner is earning Rs.72,750/- per month. Learned Magistrate considering the income and the responsibility of the petitioner/husband, granted the interim maintenance to the tune of Rs.18,000/- per mensem.

6. However, after careful perusal of the record between the lines, it appears to me that the learned Magistrate meticulously struck a delicate balance between the husband's earning and the essential sum required to sustain a life of dignity.

7. That apart, it is settled proposition of law that wife is entitled to $\frac{1}{3}$ rd of the income of her husband. Learned Magistrate promulgated the order of maintenance to the tune of Rs.18,000/- which is lesser than $\frac{1}{3}$ rd of Rs.72,750/-.

8. In the aforesaid view of the matter, I find hardly any scope to interfere with the impugned order.

9. In the result, the revisional application is dismissed.

10. Learned Magistrate is requested to dispose of the application under Section 125 of the Code of Criminal Procedure (Section 144 of BNSS) as expeditiously as possible, without being influenced by this order in any manner whatsoever.

11. All parties shall act on the basis of a server copy of this order duly downloaded from the official website of this Court.

12. Urgent photostat certified copy of this order, if applied for, be given to the parties, upon compliance of necessary formalities.

(Bibhas Ranjan De, J.)