

IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
APPELLATE SIDE

CRR 3562 of 2024

Amit Kumar Kolay
Vs.
The State of West Bengal & Anr.

Mr. Raju Ghosh
Mr. Sumitava Chakraborty
... For the petitioner

Mr. Jayanta Narayan Chatterjee, Sr. Counsel
Mr. Sirsendu Sinha Roy
Mr. Supreme Naskar
Ms. Jayashree Patra
Ms. Pritha Sinha
... For the opposite party no.2

1. This revisional application has been filed assailing the judgment dated 25th July, 2024 passed in connection with Criminal Motion No.040 of 2024 wherein the learned Additional Sessions Judge, 1st Court at Serampore affirmed the order dated 5th February, 2024 passed by the learned Judicial Magistrate, 4th Court, Serampore in connection with Misc. Case No.83 of 2022 wherein the learned Magistrate promulgated an interim order of maintenance, directing the petitioner/husband to pay Rs.10,000/- each to his wife and minor child totaling to Rs.20,000/- per month within tenth day of each succeeding month. In disposing of a petition for interim maintenance, the learned Magistrate observed as follows:-

“In view of the above discussion, it is seen that the Marriage between the parties and child are admitted. Now, there are contingencies prevailing regarding the

actual income of the O.P., the actual reason of the petitioner not residing with her husband and other technical and material points. But these intricacies can only be sorted out by taking evidence which is a later stage. At present, prima facie, the only issue under consideration of this Court is that the O.P. is supposed to have sufficient means to maintain his wife who is in distress condition to maintain her livelihood. Here at this juncture, it is to be noted here that the husband and a father cannot anyway absolve from his legal liability to maintain his wife and child, if not waived in law (Rajnish v-Vs-Neha, 2021 SCC 324).”

2. That order was assailed in Criminal Revision, being No.040 of 2024, wherein the learned Appellate Court considered the business carried on by the petitioner/husband and disbelieved the actual income disclosed in the income tax return. The learned Appellate Court also considered the liability and expenditure of the opposite party, i.e., wife and ultimately affirmed the order of the learned Magistrate in Misc. Case No.83 of 2022.

3. In course of hearing, it is admitted that the petitioner/husband is a software engineer.

4. After going through the order passed by the Learned Judicial Magistrate, 4th Court, Serampore, I find that the learned Magistrate meticulously struck a delicate balance between the petitioner’s earnings and the essential sum required to sustain the life of dignity. The amount of maintenance ordered by the learned Magistrate, in my most considered view, is well in consonance with requirement of bare sustenance to secure

livelihood with dignity and survival of the opposite party/wife and her minor child.

5. In the aforesaid view of the matter, I find hardly any scope to interfere with the order passed by the learned Trial Court as well as the learned First Revisional Court.

6. As a sequel, the revisional application stands dismissed.

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

8. Criminal Section is directed to supply certified copies of this order to the parties, if applied for, upon compliance of all necessary formalities.

(Bibhas Ranjan De, J.)