

27.03.2025
Sl. no. 20
Ct. No. 237
P.M.

C.R.R. 3577 OF 2022
Swati Bhattacharya nee Mukherjee
- vs -
Arnab Bhattacharya.

Mr. Apalak Basu,
Ms. Sanghamitra Mridha
... for the petitioner

Mr. Debasis Kar,
Mr. Arka Tilak Bhadra,
Mr. Husen Mustaji
... for the respondent.

Being aggrieved by the order dated 15th June, 2022 passed by learned Judicial Magistrate, 3rd Court, Barrackpore, North 24 Parganas in connection with Misc. Case No. 300 of 2021 present application has been preferred by the petitioner/wife.

By the order impugned learned Trial Court has granted interim maintenance to the tune of Rs. 12,000/- per month in favour of the petitioner herein.

Being aggrieved by that order, it has been contended by the petitioner that the Court below while passing order impugned has totally failed to evaluate the facts of the present case in its proper perspective. Her specific case is that she is entitled to get Rs. 50,000/- towards interim maintenance and the amount granted by the Court below is shockingly low in the context of standard of living to which the petitioner was accustomed, during her stay at her matrimonial home.

Learned counsel for the petitioner further argued that the Court below had failed to appreciate that maintenance would not mean only such amount as would be sufficient for the petitioner to make out her existence at the subsistence level but would cover such amount as would be necessary or suited to the status and situation which the petitioner would have enjoyed as the wife of the opposite party herein. As such monthly maintenance of Rs. 12,000/- is insufficient specially when the opposite party earns Rs. 2,00,000/- per month. Accordingly he has prayed for enhancement of the said amount.

Learned counsel appearing on behalf of the opposite party raised strong objection contending that the opposite party/husband has various liabilities as stated in the affidavit of assets and liabilities and moreover, the opposite party is regularly paying his aforesaid maintenance amount and he is not a defaulter. He further submits that the opposite party/husband after making necessary deductions hardly gets Rs. 87,000/- per month and as such the amount awarded by the Court below is quite justified and does not call for interference by this Court, invoking its jurisdiction under Section 482 of the Code of Criminal Procedure.

I have considered the submissions made by both the parties. It appears that husband/opposite party herein though filed affidavit of assets and liabilities before the Court

below but cunningly has not mentioned his monthly income and in fact in the affidavit of assets column No. ' F ' which is under the heading "Details of income of the deponent" as prescribed in the judgement of **Rajnesh - vs - Neha & Anr. (2021) 2 Supreme Court Cases 324**, the first three columns under the heading

(1) Name of employer

(2) Designation

(3) Monthly Income

cleverly and unscrupulously deleted from the prescribed format in order to suppress monthly income, which is highly deprecated.

The Court below also while passed the order did not take note of it.

On the basis of such incomplete affidavit of assets and liabilities filed by the husband/opposite party herein it was hardly possible for the Trial Court to do justice in determining the quantum of maintenance to be awarded to the petitioner herein.

In such circumstances the husband/opposite party herein is directed to file affidavit of assets and liabilities strictly in terms of the proforma given as annexure in the judgement of **Rajnesh - Vs - Neha & Anr.** (supra) within a period of three weeks from the date of communication of this order. The order impugned is set aside, however, the husband/petitioner will go

on paying an amount of Rs. 17,000/- per month till further order. The Court below is directed to dispose of petitioner's prayer for interim maintenance afresh preferably within a period of thirty days from the filing of affidavit of assets and liabilities by the husband/opposite parties, without being influenced by any observations made herein.

CRR 3577 of 2022 stands disposed of.

Trial Court is directed to dispose of the original maintenance application as expeditiously as possible and he is requested to make his best effort to conclude such proceeding preferably within a period of three months from the date of communication of this order.

(Dr. Ajoy Kumar Mukherjee, J.)