17.11.2025
Court No.6
D/L No.4
S. Gayen

IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION
APPELLATE SIDE

CO 3792 of 2025

Prasanta Pradip Paul
Versus
Rinku Pal (Nee Das)

Mr. Rajdeep Bhattacharya
Mr. Sourav Mondal
...for the Petitioner

1. This is an application challenging an order dated August 11, 2025 passed by the learned Additional District Judge, Fast Track, 4th Court, Alipore, South 24 Parganas in Misc. Case No. 211 of 2023. The said order was passed in Matrimonial Suit No. 461 of 2023. The opposite party filed an application for maintenance pendente lite and claimed Rs. 29,000/- per month. Upon contested hearing and upon considering the affidavit of assets filed by the parties and also the oral evidence, the learned Court was of the view that the wife was entitled to maintenance pendente lite @ Rs. 15,000/- per month with effect from the date of filing of the petition under Section 36 of the Special Marriage Act, 1954 i.e. from April 25, 2023.

2. Mr. Bhattacharya, learned advocate for the petitioner/husband submits that the amount awarded is excessive. The affidavit of assets disclosed, would show that the petitioner draws an annual income of Rs.

20,000/- as retirement pension from partnership business from which he has retired. Further reference has been made to the income tax return to support that the annual income varied Rs. 1,77,000/- to 2,77,000/-. Although the petitioner deposed that he has some rental income, the amount was only Rs. 3000/- per month. Whereas, the learned Court wrongly presumed that, as the factum of rental income had not been disclosed in the affidavit of assets, the husband has suppressed actual income. The wife had claimed that the husband had been drawing more than Rs. 30,000/- from rental accommodations, but could not prove the same. Under such circumstances, it is prayed that the amount of Rs. 15,000/- should be reduced.

3. I have gone through the order impugned before this Court. I find that the learned Court had applied his mind and meticulously considered the affidavit of assets filed by both the parties. According to the learned Court, the income tax return could not be treated as gospel truth. While deciding so, the Court relied on a decision of the Court in the matter of ***Syed Aftabur Rahaman vs. State of West Bengal & Ors.*** reported in ***2014 SCC Online Cal 22895***. The High Court had observed that reliance on a ITR return would only prove that, the party filing the return had disclosed what was the taxable income. What was

revealed before the authorities, may not be the absolute and correct disclosure. Even acceptance of the ITR return would not be evidence of the correct income.

4. Is well settled that, the husband has to prove his income. He is in exclusive knowledge of his own income. Requirement to file affidavit of assets was mandated by a decision of the Hon'ble Supreme Court on the need for truthful disclosure of the assets and income. Here, the husband suppressed the fact that he had rental income. The said fact came out in the cross-examination. He was unable to support his statement that his income was only Rs. 3000/- per month from rent. Thus, the Court was of the view that the husband was withholding necessary material and information from the Court in order to substantiate that he had a meagre income of Rs. 20,000/- per month. It further appears that the husband is a co-owner of a residential building. He has a scooter. He has some bank balance. He has deposed in his cross-examination that he has rental income. The affidavit of assets disclosed that he has monthly expenditure for his own maintenance of Rs. 20.000/-. The learned Court was of the view that if a person spends 20,000/- per month for his regular maintenance without having to pay rent, it would mean that he had substantial income, and is bound to ensure that the wife enjoys the same status. The wife should also be able to maintain

herself and should be entitled to the same standard of living as the husband. Under such circumstances, the amount of Rs. 15,000/- per month was awarded. While considering the quantum of maintenance for the wife, the aspects required to be taken into account are, cost of a rental accommodation per month, cost of food, clothing, medicines and other miscellaneous expenses.

5. If the husband spends Rs. 20,000/- on himself, I do not find any illegality or irregularity with the decision that, Rs. 15,000/- would be adequate for the wife. Moreover, the principle of adverse presumption was drawn. The learned Court was of the definite finding that the husband had suppressed relevant materials of his income from the Court. Under such circumstances, this Court, is not required to re-analyze the facts which were before the learned Court and the evidence which adduced.

6. Under Such circumstances, the application is dismissed.

7. The order shall be complied with and the husband shall pay the arrear maintenance on and from April 25, 2023 up to November, 2025 in twelve equal monthly installments. First of such instalment shall be paid within December 15, 2025 along with current maintenance for December, 2025. Thereafter, each of the instalments shall be paid within the 15th day of each succeeding month with the current maintenance

for that month. In case of failure to pay any of the instalments, the opposite party can execute the order as directed by the learned Court.

8. Accordingly, the revisional application being CO 3792 of 2025 stands dismissed.

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

(Shampa Sarkar, J.)