

IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
Appellate Side

Present:

The Hon'ble Justice Ajay Kumar Gupta

C.R.R. 3724 of 2017

Sushma Mour

Versus

Ravi Kumar Mour @ Sanjay

For the Petitioner : Mr. Devajyoti Barman, Adv.
Ms. Sanjukta Basu Mallick, Adv.

For the Opposite Party : Mr. Kusal Kumar Mukherjee, Adv.
Mr. K. K. Tewary, Adv.
Mr. Narattam Acharyya, Adv.
Mr. Rahul Das, Adv.

Heard on : 19.11.2024

Judgment on : 29.01.2025

Ajay Kumar Gupta, J:

1. Petitioner being the wife of the opposite party, Ravi Kumar Mour @ Sanjay filed this Criminal Revisional application under Section 482 of the Code of Criminal Procedure, 1973 challenging the Impugned Judgment dated September 4, 2017 passed by the Learned Additional Principal Judge, Family Court, Calcutta in Miscellaneous Case No. 66 of 2009 (Sushma Mour Vs. Ravi Kumar Mour) under Section 125 of the Code of Criminal Procedure, 1973.

2. By the said judgment, Learned Additional Principal Judge allowed a maintenance amount of Rs. 10,000/- per month from September 1, 2017 which should be adjusted with the maintenance amount awarded in favour of the petitioner/wife in other proceedings filed under the Protection of Women from Domestic Violence Act, 2005.

3. The background of the case for filing of this Criminal Revisional application is that the petitioner was the legally married wife of the opposite party herein. Their marriage was solemnized as per the Hindu Rites and Customs on 23.01.2007 at Club Four Seasons, Natural Heights, 137, V.I.P. Road, Kolkata 700 052.

4. At the time of the marriage, the petitioner's parents had fulfilled the demands of opposite party and his family members in the

form of cash, jewellerys, ornaments, cloths etc. These stridhan properties were handed over to the mother of the opposite party. After the marriage, the petitioner was taken to the house of the opposite party situated at 7-H, Cornfield Road, Kolkata 700 019 where she led her conjugal life for a week.

5. During her stay, she was subjected to both physical and mental torture by the opposite party, who demanded further dowry and she was not provided with proper food or clothing and was also forced to do entire household works even in presence of servants, who were employed particularly for such household works.

6. The petitioner was taken to various locations where the opposite party had their residence-cum-hotels such as Guwahati, Delhi and Kolkata. However, the physical and mental torture by the opposite party and other family members were continued. Eventually, the petitioner was driven out from matrimonial home on 18.04.2008 and has been staying thereafter at her parents' house ever since. During such stay at her parents' house, the opposite party did not provide her any maintenance though he had sufficient means to maintain and completely deserted her at the mercy of her parents' house.

7. The petitioner has no independent income to maintain herself. She was also constantly threatened over telephone by the opposite party, who warned her not to contact him otherwise they would not hesitate to kill her. Despite such threatening, the petitioner visited her matrimonial home at Guwahati on 27.10.2008 but she was not allowed to stay there. Ultimately, her parents and relatives had to bring her from Guwahati to Kolkata on 08.11.2008.

8. The opposite party did not also even hesitate to abort her pregnancy by giving her wrong medicine in the name of vitamin tablets. Due to such physical and mental tortures, the petitioner had filed a case against the opposite party and his family members being Case No. C/36115 of 2008 before the Court of Learned Metropolitan Magistrate at Calcutta under Sections 498A/406/34 of the Indian Penal Code, 1860 and the same is still pending for adjudication.

9. Petitioner also filed an application under the Protection of Women from Domestic Violence Act, 2005 against the opposite party and other family members being Case No. C/6928 of 2009 when opposite party refused to provide maintenance. In the said proceeding, initially a sum of Rs. 5,000/- per month was awarded as maintenance but, it was later increased to Rs. 8,000/- per month.

10. She has claimed a sum of Rs. 2,30,000/- as monthly maintenance for herself based on the status and lifestyle, lead by the opposite party/husband and his income was/is more than Rs. 20 Lakhs per month from hotels business, namely, “Mayur Residency” situated at 109, S.N. Banerjee Road, Kolkata – 700 016, “Mayur Hotel” situated at Paltan Bazar in Guwahati, Assam and “Mayur Assam Hotel” situated at 129, Arakasan Road, Delhi.

11. The petitioner had also filed an application under Section 24 of the Hindu Marriage Act praying for alimony pendente lite in a matrimonial suit filed by the husband seeking divorce. The said application was allowed by the Learned Judge and disposed of by an order dated 17.01.2019 in Matrimonial Suit No. 11 of 2009 thereby awarded a sum of Rs. 32,000/- as alimony pendente lite and litigation cost of Rs. 1 Lakh to the petitioner.

12. Being aggrieved by and dissatisfied with the said awarded alimony pendente lite by the Learned Judge, the opposite party filed a Civil Revisional application being CO No. 2859 of 2018 for reduction of amount of alimony pendente lite granted @ Rs. 32,000/- per month. At the same time, the petitioner/wife has also filed another Civil Revisional application being CO 3617 of 2019 for enhancement of the sum of alimony pendente lite.

13. Both the Revisional applications were taken up together for hearing by a Co-ordinate Bench of this Court and disposed of both the Revisional applications without interfering with the impugned order dated 17.01.2019 and further directed to the husband to go on paying an ad-hoc amount of Rs. 32,000/- to the wife for the alimony pendente lite as well as litigation cost of Rs. 1 Lakh as directed by the Learned Judge and remanded the matter to the Learned Trial Court to hear afresh and decide the same upon taking into consideration of all the documents filed by both the sides and come to a reasoned conclusion as to the alimony pendente lite and litigation cost payable by the husband to the wife adjusting therefrom the amount already paid by the husband to the wife pursuant to the order of other proceedings.

14. Upon such direction, the Learned Judge finally disposed of afresh the said application filed under Section 24 of the Hindu Marriage Act by allowing the same amount of Rs. 32,000/- as alimony pendente lite every month till disposal of the Matrimonial Suit No. 11/2009 on 22.12.2023.

15. As per the subsequent change of circumstances, the petitioner filed supplementary affidavit indicating that the said Matrimonial Suit No. 11/2009 was disposed of on 22.12.2023 by the Learned

Additional District Judge, 4th Court at Alipore and dissolved the marriage by way of decree of divorce. The same is under challenge before the Hon'ble High Court in an Appeal being FAT No. 62 of 2024 and the same is pending.

16. The petitioner now prays a total maintenance to the tune of Rs. 2 Lakhs per month as per the income and status of her husband indicating her expenses for her survival as described below:

i. Monthly rent for a 3 BHK flat at New Town – Rs. 10,230/-.

ii. Monthly travelling expenses for court visits and other requirements – Rs. 5,000/-.

iii. Monthly expenses for fooding – Rs. 6,000/-.

iv. Monthly expenses towards litigations pending in High Court, Bankshall Court and Family Court – Rs. 12,000/-

v. Monthly Expenses for clothing – Rs. 6,000/-

Total expenses in average in a month is hence Rs. 52,230/-.

17. It is further reiterated that the opposite party earns more than Rs. 20,00,000/= per month as such petitioner is entitled to get

at least Rs. 2,00,000/= per month and same is commensurated with the income and status of her husband.

18. On the other hand, learned counsel appearing on behalf of the opposite party vehemently raised objection on such prayer for allowing maintenance to the tune of Rs. 2,00,000/= per month mainly on three-fold grounds.

Firstly, the petitioner is not entitled to any maintenance as she is an well educated lady and can manage her own income to maintain herself, if she chooses to work in any organisation.

Secondly, the opposite party denied the allegations of accepting a huge dowry. In fact, he was a divorcee from his first marriage and this fact was known to her. The opposite party used to stay separately from his family members so the question of demanding dowry or torturing her does not arise. She had no love and affection to the opposite party/husband despite his efforts to maintain a normal matrimonial relation. However, these attempts failed due to her arrogant behaviour. She was more interested in the wealth of her mother-in-law and immediately after marriage, she started insisting the opposite party to take share forcibly in the properties. And

Finally, the opposite party has been paying Rs. 6,000/= per month to his first wife from his actual income of Rs. 18,000/= per month as an employee of H.P. Institute of Insurance, where he works as a Relationship Manager of the Company. He denied the claim of the Petitioner that he has hotel businesses at Delhi, Kolkata and Guwahati.

19. Having heard the submissions of the learned counsels appearing on behalf of the parties and on perusal of the application as well as annexure thereto, this Court finds the petitioner has filed several proceedings against the opposite party and his family members. She also filed applications for maintenance one after another in different proceedings. There is no dispute that she was not the wife of the opposite party and she has no her income to maintain herself.

20. She was allowed maintenance in a case filed under the Protection of Women from Domestic Violence Act, 2005 against the opposite party being Case No. C/6928 of 2009. In the said proceedings, initially a sum of Rs. 5,000/- per month was awarded as maintenance and, subsequently, the same interim maintenance amount was enhanced to Rs. 8,000/- per month.

21. Maintenance of Rs. 10,000/= per month was allowed in proceedings filed under Section 125 of the CrPC on 04.09.2017 by the Learned Additional Principal Judge and same is effected on and from September 1, 2017. However, it should be adjusted with the maintenance amount awarded in favour of the petitioner/wife in connection with the case under P.W.D.V. Act.

22. Similarly, a sum of Rs. 32,000/= per month was allowed in an application under Section 24 of the Hindu Marriage Act as alimony pendente lite. The said application was allowed by the Learned Judge and disposed of by an order dated 17.01.2019 in Matrimonial Suit No. 11 of 2009 thereby allowed a sum of Rs. 32,000/- as alimony pendente lite and litigation cost of Rs. 1 Lakh to the petitioner.

23. The Hon'ble High Court did not interfere with the said alimony amount of Rs. 32,000/= in Civil Revisional applications filed by the respective parties and further directed to the husband that he will go on paying an ad-hoc amount of Rs. 32,000/= per month to the wife for the time being, as well as, the litigation costs of Rs. 1 lakh, as directed by the Learned Trial Court.

24. It was further pleased to direct all arrears of alimony pendente lite and the litigation costs shall be paid by the husband to the wife

within three weeks from date, along with current monthly alimony for every month by the 15th day of each succeeding months.

25. However, the matter was remanded back to the Learned Trial Court directing to hear afresh. The Learned Trial Court had to dispose of the alimony application of the wife afresh, upon taking into consideration all the documents filed by both the sides and come to a reasoned conclusion as to the alimony payable by the husband to the wife, adjusting therefrom the amount already paid by the husband to the wife pursuant to the order of Learned Courts passed in different proceedings.

26. Finally, the said Misc. Case No. 4 of 2017 filed under Section 24 of the Hindu marriage Act, 1955 was heard and disposed of afresh on 22.12.2023 and thereby the Learned Judge keeps the same amount of Rs. 32,000/= as alimony pendente lite for every month till disposal of the Matrimonial Suit No. 11/2009.

27. Rs. 32,000/- per month as alimony pendente lite was allowed by the Learned Judge in Misc Case No. 4 of 2017 arising out of Matrimonial Suit No. 11 of 2009 vide order dated 22.12.2023 has not been challenged by either of the parties. Accordingly, said amount was final as alimony pendente lite for every month till disposal of the Matrimonial Suit.

28. It appears from the evidence of the parties led before the Family Court that income disclosed by the opposite party/husband was not the only income. He has admitted that he owns 1901 shares of Mayur Resort Ltd., 80,000 shares in Mayur Krishna Pvt. Ltd. and is a shareholder of Mayur Hotel, Guwahati, Mayur Krishna Cinema Hall, Guwahati, Assam and Mayur Krishna Market at Guwahati. That apart, the husband admitted to be a shareholder of M/s. Moora & Moora Finance Pvt. Ltd., holding 80,010 shares and has also shares under the company in a hotel in Kolkata, namely, Mayur Residency.

29. It was further admitted by the husband in cross-examination that the husband only showed the yearly income from his salary, but not from the other earnings. Therefore, the opposite party did not disclose his actual income in the proceedings filed under Section 125 of the CrPC. He had suppressed his actual income to deprive his wife from getting actual maintenance though he has moral and statutory duty to maintain her, if she is unable to maintain herself.

30. In view of the facts as discussed above, this Court is of the opinion that the Learned Judge, Family Court has not considered the application under Section 125 of the CrPC based on evidence as led by the Parties. Learned Judge has also not considered about the actual income, financial capacity and status of living of the husband.

Consequently, order dated September 4, 2017 passed by the Learned Judge, Family Court in Misc. Case No. 66 of 2009 is hereby modified and allowed the maintenance amount as similar as to the tune of Rs. 32,000/= per month as awarded by the Learned Judge initially on 17.01.2019 passed in a Misc. Case filed under Section 24 of the Hindu Marriage Act arising from Matrimonial Suit as the same was not disputed by the parties. The opposite party was paying the said amount from 2019. A Co-ordinate Bench of this Court also upheld the said amount awarded by the Learned Judge. Even after remanded by Co-ordinate Bench of this Court, the Learned Judge again reiterated and fixed alimony pendente lite @ Rs. 32,000/- per month after hearing the parties.

31. It is settled law that the maintenance amount awarded must be reasonable and realistic considering the financial capacity, actual income, standard of living and reasonable expenses for his over maintenance and other liabilities vis-a-vis the sufficiency of the quantum has to be adjudged so that the wife is able to maintain herself with reasonable comfort. The amount of maintenance as aforesaid awarded by this Court would be just and reasonable at this stage.

32. Accordingly, **CRR 3724 of 2017** is, thus, **allowed**.

Connected applications, if any, are also, thus, disposed of.

33. The opposite party/husband shall pay a sum of Rs. 32,000/= per month to the petitioner/wife on and from September 1, 2017, which should be adjusted with the maintenance amount awarded in favour of the petitioner/wife in other proceedings and same shall be paid by the husband every month by the 15th day of each succeeding months continuously without fail. All arrears of maintenance, if any, shall be paid by the husband to the wife within six months from the date either at a time or in instalments.

34. The Impugned Judgment dated September 4, 2017 passed by the Learned Additional Principal Judge, Family Court, Calcutta in Miscellaneous Case No. 66 of 2009 (Sushma Mour Vs. Ravi Kumar Mour) under Section 125 of the Code of Criminal Procedure, 1973 is, thus, modified to the aforesaid extent.

35. Let a copy of this Judgment be sent to the Learned Court below for information.

36. Interim order, if any, stands vacated.

37. Parties shall act on the server copies of this Judgment uploaded on the website of this Court.

38. Urgent photostat certified copy of this Judgment, if applied for, is to be given as expeditiously to the parties on compliance of all legal formalities.

(Ajay Kumar Gupta, J)

P. Adak (P.A.)