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2025  
Ct. No. 29

**C.R.R. 4769 of 2022**

**Rajib Sk  
Vs.  
Sulekha Bibi**

*Mr. Swapan Kumar Mallick  
Mr. Goutam Roy  
Ms. Sudeshna Das*

*...For the Petitioner*

*Mr. Tapan Datta Gupta  
Mr. Parvej Anam  
Ms. Rituparna Ghosh*

*...For the Opposite Party*

This is an application which has been preferred by the petitioner being aggrieved by the judgment and order dated 19<sup>th</sup> November, 2022 passed by the learned Additional Sessions Judge, 1<sup>st</sup> Fast Track Court, Lalbagh, Murshidabad in Criminal Revision Case No. 19 of 2022 arising out of M.R. Case No. 341 of 2019 allowing the prayer for maintenance of the petitioner.

It is submitted that the opposite party herein filed application under Section 125 of the Cr.P.C. before the Court below and the Trial Court by an order dated 9.4.2021 directed the petitioner herein to pay a sum of Rs. 2,500/- per month towards maintenance for her minor child from the date of the order. Being aggrieved by that order, petitioner/wife preferred revisional application before the learned Additional Sessions Judge, 1<sup>st</sup> Fast Track Court and the Court below by the order impugned dated 19.11.2022 modified the order passed by the Trial Court and directed the petitioner/husband to pay a sum of Rs. 6,000/- per month towards the maintenance of the child. Being aggrieved by the said order impugned the learned Counsel appearing on

behalf of the petitioner submits that the order impugned is illegal, bad in law and is liable to be set aside. The Court below did not consider that the opposite party herein/wife left her matrimonial house on her own accord and staying at her parental house without any sufficient reason. The Court below also did not consider that the opposite party/wife had deposed stating that she does not want to lead conjugal life with her husband. He further submits that the Court below also did not consider that there was no documentary proof to show that the petitioner earns sufficient money but in absence of evidence learned court below passed the order impugned, whereby he directed the petitioner to pay Rs. 6,000/- per month. The impugned order is cryptic and not supported by reason and as such is not sustainable in the eye of law.

Learned Counsel appearing on behalf of the opposite party submits that the petitioner is a teacher of a primary school and earning more than Rs. 50,000/- per month and as such the order impugned does not call for interference by this Court.

I have considered the submissions made on behalf of both the parties. On perusal of the orders passed by the Courts below it appear that though the Court below passed the order in the year 2022 but it did not take into account the mandatory directions made by the Hon'ble Apex Court in the case of *Rajnish Vs. Neha*, reported in AIR 2021 SC 569, wherein the Apex Court observed that while deciding quantum of maintenance, the court shall take into account the criteria enumerated in

the affidavit of assets and liabilities of both the parties to be filed as per proforma annexed with the judgment but , it has not been followed by the Court below while passing the order impugned.

In such view of the matter, I find that the order impugned suffers impropriety about non-compliance of the mandatory directions passed by the Apex Court in the case of *Rajnesh Vs. Neha (Supra)*. In such view of the matter, order No. 12 dated 19.11.2022 passed by the court below as also the order passed by the Trial Court dated 9.4.2021 are hereby set aside.

Both the parties are hereby directed to file their affidavit of assets and liabilities before the Trial Court within a period of 30 days from the date of communication of this order and the Trial Court will decide the petitioner's prayer for maintenance afresh within a period of 60 days thereafter.

Petitioner herein shall go on paying a sum of Rs. 5,000/- per month to the opposite party till disposal of the maintenance application filed by the opposite party herein afresh.

It is made clear that the Trial Court while disposing of the petitioner's/wife's prayer for maintenance afresh shall not be influenced by any observations made herein by this Court and any order of maintenance shall be made effective from the date of filing application in terms of direction made in **Rajnesh Vs. Neha (Supra)**.

With the aforesaid observations, the application, being C.R.R.

4769 of 2022 thus stands disposed of.

Urgent Photostat certified copy of this order, if applied for, be given to the parties, on priority basis, upon compliance of all requisite formalities.

*(Dr. Ajoy Kumar Mukherjee, J. )*