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04.03
2025
Ct. No. 3

Calcutta High Court
In the Circuit Bench at Jalpaiguri
Criminal Revisional Jurisdiction

C.R.R. 374 of 2024
Sri Atanu Sarkar
Vs.
Smt. Mampi Roy Sarkar

Mr. Avrojoyti Das
Mr. Rajdeep Das

...For the Petitioner

Mr. Swarup Kumar Mondal
Ms. Satyaki Basu

...For the Opposite Party

This application has been preferred being aggrieved by the order dated 9th May, 2024 by which the Court below disposed of the opposite party/wife's prayer for maintenance filed under section 125 Cr.P.C. ex parte. By the impugned order learned Court below directed to pay maintenance amount to the tune of Rs. 5,000/- per month for herself and Rs. 10,000/- per month for her minor daughter from the date of filing of the application.

Being aggrieved by that order, petitioner herein submits that they came to know about the proceeding and the ex parte order, when an execution case had been initiated by the opposite party/herein to realize maintenance amount. The petitioner/husband submits that he wants to contest the said application.

Having heard the learned Counsel appearing on behalf of both the parties and on perusal of the order impugned it appears that the Court below has passed the order without complying the mandatory direction passed by the Hon'ble Apex Court in the case of *Rajnesh Vs. Neha*, reported in AIR 2021 SC 569 nor any direction was made by the

Court below before passing the order impugned to file affidavit of assets and liabilities.

In such view of the matter, the present application, being C.R.R. 374 of 2024 is hereby disposed of with a direction upon both the parties to file affidavit of assets and liabilities in the format prescribed in the judgment before the Court below within a period of one month from the date of passing this order and in the event of filing such affidavit of assets and liabilities by both the parties before the Court below, the Trial Court will dispose of the application as expeditiously as possible preferably within a period of six months from the date of filing such affidavit of assets and liabilities by the parties without being influenced by any observation made herein. The Court below will also give opportunity to the opposite party to file objection, if any, against the prayer for maintenance.

The order impugned dated 9.5.2024 is hereby set aside. However, the petitioner herein will go on paying Rs. 8,000/- per month within 10th day of each succeeding month as per English Calendar month till disposal of the maintenance application by the Trial Court.

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.)