

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

BEFORE:

The Hon'ble Justice Hiranmay Bhattacharyya

CO 4537 of 2023

Saikat Mitra
Versus
Amrita Dutta

With

CO 1168 of 2024

Amrita Dutta
Versus
Saikat Mitra

Mr. Debdutta Raha
Mr. Avishek Bhandari
Mr. Rupam Gupta
Mr. Dipayan Dan
Mr. Avishek Bhandari
Mr. Dipayan Dan
...for the petitioner in CO 4537/2023
for opposite party in CO 1168/2024

Mr. Partha Pratim Roy
Mr. Shibaji Kr. Das
Mr. Ahshan Ahmed
Ms. Deblina De
...for the petitioner in CO 1168/2024
for opposite party in CO 4537/2023

Heard on: 20.05.2026

Judgement delivered

In open Court on: 20rd May, 2026.

The Court:-

1. The order dated September 19, 2023 passed by the learned Additional District Judge,
Fast Track Court No. V at Barasat in Misc. Case No. 73 of 2021 arising out of

Matrimonial Suit No. 1727 of 2020, is under challenge at the instance of the husband and wife. The civil revisional application filed by the husband is registered as CO 4537 of 2023 and that filed by the wife is registered as CO 1168 of 2024.

2. By the order impugned, the learned Additional District Judge allowed the Misc. Case No. 73 of 2021 thereby directing the husband to pay alimony to the wife at the rate of Rs.10,000/- per month for herself and Rs.8,000/- per month for the minor daughter with effect from the date of filing of the application together with one time litigation cost of Rs.15,000/-.

3. The learned Advocate appearing for the husband submits that the wife is having sufficient income of her own to maintain herself as well as the minor daughter. He submits that the learned Trial Judge ought not to have granted any amount on account of alimony for the wife.

4. Mr. Roy, learned Advocate appearing for the wife submits that the income of the husband is much more than that of the income of the wife. He thus, submits that the wife is entitled to some more amounts to compensate such difference in the income between the husband and the wife in view of the well-settled proposition of law that the wife shall have to be maintained in the same status as that of the husband. He further submits that the learned Trial Judge, without considering the actual income of the husband has, fixed the amount of alimony for the wife and the minor daughter at a much lower rate than what the wife is entitled to. Mr. Roy further submits that in the meantime the income of the husband has also increased considerably and, therefore, the amount of alimony should be increased taking note of the subsequent increase for the salary of the husband.

5. In reply, the learned Advocate for the husband submits that the income of the wife has also increased in the meantime. He submits that since the wife is earning a

substantial amount on account of salary, the wife is not entitled to any alimony for herself.

6. Heard the learned Advocates for the respective parties and perused the materials placed.

7. The application under Section 36 of the Special Marriage Act was filed and registered as a miscellaneous case. It is not in dispute that the affidavits of assets and liabilities were filed by the respective parties to support their respective contentions in the Misc. Case.

8. The impugned order was passed sometime in the month of September, 2023 taking note of the income of the respective parties and expenses of the respective parties as well as the minor daughter as per the available materials that were available on record. It is not in dispute that in the meantime the income of the parties as well as the expenses for the minor daughter have increased.

9. A party seeking enhancement of alimony is also free to approach the Court for such purpose. Though it is well-settled that while deciding an application under Article 227 of the Constitution of India, the Court should restrict itself to the materials that were available on record before the learned Trial Judge at the time when the order under challenge was passed, however, considering the fact that the matter relates to alimony and the suit is at the stage of evidence and the evidence of the husband has already been concluded and a date for evidence of the wife in the matrimonial suit has already been fixed, this Court is of the considered view that relegating the wife to file an application for enhancement before the learned Trial Judge would further delay the hearing of the matrimonial suit.

10. In course of hearing of these civil revisional applications, the husband has produced the copy of the pay slip for the month of December 2025 and the wife has

also produced a certificate issued by her employer certifying her salary for the month of December, 2025 which were taken on record. Copies of the same have been exchanged between the parties.

11. Mr. Roy, learned Advocate appearing for the wife has also produced the details of current monthly expenses for the minor daughter, who is presently studying in Class V at BGS International Public School. The receipt showing payment of tuition fee and transport fee and other fees to the school for the child has been produced by Mr. Roy.

12. Wife has claimed that the monthly expenses of the daughter including the school fees, food, clothing, tuition, extra-curricular activities, fees of medicine etc. is Rs.41,781/- as on May 15, 2026.

13. From the salary certificate issued by the employer of the wife, it appears that the Gross Pay of the wife is Rs.1,55,656/- for the month of December 2025 and after compulsory deduction, the net pay comes to Rs.1,26,914/-. On the other hand, from the Pay Slip filed by the husband for the month of December, 2025, it appears that the gross salary of the husband is Rs.2,53,537/- and after deductions and recovery of an amount of Rs.1,15,543/-, the net pay of the husband comes to Rs.1,37,994/-.

14. After going through the pay slip filed by the husband, this Court finds that some of the deductions as indicated in the pay slip are voluntary in nature. For the purpose of fixation of the alimony pendente lite to be paid by the husband to the wife for herself and the minor daughter, only statutory deductions are to be taken into consideration.

15. Be that as it may, the husband and the wife are both earning substantial amount on account of salary income. After considering the salary of the husband and

the wife, this Court is of the considered view, that the husband and the wife have to share the expenses for the minor daughter in proportion to their respective income.

16. Though Mr. Roy learned Advocate for the wife, in course of his argument contended that the husband has suppressed his income in the affidavit of assets and liabilities, this Court is not inclined to accept such submission for the reasons as stated hereinafter.

17. From the salary slip for the month of March, 2021 produced by the husband before the learned Trial Judge, it appears that the gross salary of the husband for the month of March, 2021 was Rs.1,12,567/- and after deduction, the net income comes to Rs.1,01,933/-.

18. After going through the impugned order, this Court finds that the learned Trial Judge took note that the monthly income of the husband was approximately Rs.1,02,000/- but observed that the husband has not mentioned his gross income. Such finding of the learned Trial Judge is a perverse finding as it appears from the pay slip produced by the husband that the gross income as well as the net pay of the husband has been clearly reflected therein.

19. The wife, at the relevant point of time, claimed Rs.25,000/- per month for her minor daughter and the learned Trial Judge after considering the materials on record directed the husband to pay a sum of Rs.10,000/- per month for the maintenance and the educational expenses of the minor daughter.

20. Considering the materials that were placed before the learned Trial Judge, this Court is of the considered view that the learned Trial Judge was right in fixing the amount of alimony pendente lite for the wife at the rate of Rs.10,000/- per month and for the minor daughter at the rate of Rs.8,000/- per month.

21. However, since a substantial time has expired from filing of the application and this Court has already observed that relegating the wife before learned Trial Judge to apply for enhancement would further delay the hearing of the matrimonial suit, this Court is inclined to consider prayer of the wife to enhance the amount of alimony for the minor daughter only.

22. The minor daughter is presently studying in Class V. From the documents produced by the wife in connection with the expenses for the daughter, this Court is of the considered view that the husband should be directed to pay an additional amount for the minor daughter over and above the amount which the learned Trial Judge has directed the husband to pay.

23. The husband shall pay an additional amount over and above the amount directed to be paid by the impugned order at the rate of Rs.8000/- per month for the minor daughter with effect from the month of April 2026 till the disposal of the Matrimonial Suit. It is, however, made clear that the husband shall go on paying the amount of alimony for the wife and daughter in the matter as directed by the impugned order.

24. Considering the fact that date has been fixed for the evidence of the wife sometimes in the month of July 2026, this Court requests the learned Additional District Judge, Fast Track Court no.V at Barasat to make an endeavour to dispose of the Matrimonial Suit No. 1727 of 2020 as expeditiously as possible but positively by the end of the month of September, 2026 without granting any unnecessary adjournment to either of the parties, subject to the husband being not a defendant in payment of alimony.

25. On a query of the Court, Mr. Roy, learned Advocate appearing for the wife, submits that the husband is regularly paying alimony at the rate as directed by the impugned order.

26. The arrear amount on account of the additional amount as directed to be paid by this Court for the maintenance of the daughter for the month of April, 2026 and May, 2026 shall be paid by 15th July, 2026.

27. The husband shall pay the additional amount on and from the month of June, 2026 along with the amount as directed by the impugned order within the time limit and in the manner as stipulated in the impugned order.

28. With the above observations and directions, the revisional applications are, accordingly, disposed of.

29. Urgent Photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all requisite formalities.

(Hiranmay Bhattacharyya, J.)

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