

17.06.26
D/L
Sl-06
Ct. 06
(Samar)

CO. 1592 of 2025
With
CAN 1 of 2026
CAN 2 of 2026

Sri Jitendra Prasad
Vs.
Smt. Neha Gupta

Ms. Jhuma Chakraborty,
Mr. Rahul Kumar Saha,
Ms. Mehnaz Rahaman,
... for the petitioner.

Mr. Pratip Mukherjee,
Mr. Yashashwi Sundoriya,
.... for the opposite party.

1. This revisional application is directed against an order dated April 03, 2025 passed by the Additional District Judge, 2nd Court, Serampore, Hooghly in Misc. Case No. 07 of 2024 arising out of Matrimonial Suit No. 712 of 2023 whereby the petitioner has been directed to pay a monthly sum of Rs. 6,500/- to the opposite party and a lump sum of Rs. 30,000/- towards litigation costs.
2. Matrimonial Suit No. 712 of 2023 has been instituted by the petitioner under Section 13 (1)(i)(a) of the Hindu Marriage Act, 1955 praying for a decree for dissolution of marriage. The said suit is being contested by the opposite party by filing written statement. The opposite party has also filed an application for restitution of conjugal rights which is pending. In the said suit, the opposite

party took out an application under Section 24 of the Hindu Marriage Act, 1955 praying for alimony *pendente lite*. Such application has been allowed by the learned Trial Court by the order impugned. Feeling aggrieved thereby, the petitioner has approached this Court by way of the present revisional application.

3. Learned advocate appearing for the petitioner submits that the learned Trial Court has directed payment of a sum of Rs. 6,500/- to the opposite party as alimony *pendente lite* taking the opposite party's assertion in the affidavit of assets and liabilities that she incurs monthly expenses to the tune of Rs. 20,000/- per month as true inasmuch as, there is nothing on record to substantiate the same. It is further submitted that the opposite party as of now is earning a sum in excess of Rs. 18,000/- per month.
4. Learned advocate appearing for the opposite party submits that although no evidence was adduced in support of contention that the expenses of the opposite party are to the tune of Rs. 20,000/- per month but such assertion is a statement of fact.
5. It is further submitted that while initially the opposite party was a permanent employee, yet upon the present litigation being initiated, the opposite party had to leave her job in order to contest the

litigation and she has rejoined as contractual employee only. It is further submitted that as at present, opposite party is earning a sum of Rs. 2,250/- only per month towards basic pay.

6. Heard learned advocates appearing for the respective parties and considered the material on record.
7. A perusal of the order impugned reveals that the learned Trial Court while granting alimony pendente lite to the tune of Rs. 6,500/- per month has taken into consideration the fact that the opposite party's income is Rs. 13,500/- per month and the expenses incurred by the opposite party are Rs. 20,000/- per month.
8. It is evident from the material that was there on record before the learned Trial Court, especially the E-service book of the petitioner (which is referred to in the petitioner's written objection at paragraph 24 and which also forms Annexure P-9 to the present revisional application at page 69) that the sum of Rs. 13,500/- that has been taken to be the income of the opposite party by the learned Trial Court was only her basic pay. On the other hand the petitioner's net pay has been considered by the learned Trial Court. Thus the learned Trial Court has compared the net salary of the petitioner with the basic pay of the opposite party on the basis of

the material before it, which is improper.

9. Further the learned Trial Court has taken the opposite party's case of incurring monthly expenses to the tune of Rs. 20,000/- to be true as will appear from the observation that *"However, the O.P. cannot escape his liability of maintaining his wife, simply on the ground that his wife is presently earning a sum of Rs. 13500/- per month especially since the petitioner has mentioned in her affidavit of assets and liabilities that her expenses is Rs. 20000/- per month."* The aforesaid observation evinces clear reliance on the opposite party's statement as regards expenses without there being any evidence to even feebly corroborate such statement. On the other hand the order does not show any consideration of the petitioner's expenses.
10. For all the reasons aforesaid the impugned order dated April 03, 2025 is set aside and the matter is remanded to the file of the Additional District Judge, 2nd Court, Serampore, Hooghly for a fresh consideration on merits.
11. Since the parties have asserted diametrically opposite claims as regards the present income of the opposite party – that is to say - while the petitioner submits that the income of the opposite party has increased and the opposite party says that the income of the opposite party has drastically

gone down therefore, both the parties would be free to adduce evidence in support of their respective contentions before the learned Trial Court and the learned Trial Court shall pass a fresh order upon taking into consideration such fresh material as may be produced by the parties in respect of their respective cases so that the present income of the parties can be ascertained. Since the learned Trial Court will be considering the matter afresh, therefore fresh affidavits of assets and liabilities will be filed by both the parties before the learned Trial Court thereby bringing on record the present income status of both the parties.

12. The learned Trial Court is requested to hear out the opposite party's application under Section 24 of the Hindu Marriage Act, 1955 as expeditiously as possible and preferably within a period of three months from the next date fixed without granting any unnecessary adjournment to either of the parties.
13. CAN 1 of 2026 is an application for vacating of the interim order passed by this Court earlier and CAN 2 of 2026 is an application for re-imposition thereof. Since the revisional application itself has been disposed of CAN 1 of 2026 and CAN 2 of 2026 also stand disposed of accordingly.
14. With the above observations, CO. 1592 of 2025

stands disposed of. There shall be no order as to costs.

15. Urgent photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(Om Narayan Rai, J.)