

13.02.2026

Sl.No. 7.

Ct. 32

In The High Court At Calcutta
Criminal Revisional Jurisdiction
Appellate Side

CRR 2672 of 2024

Mitaly Karmakar (Baidya)
Vs
Saroi Kumar Baidya

Mr. Tanmoy Chowhdury
Mr. Gautam Kumar Maity
....For the petitioner

Mr. Kallol Mondal
Mr. Krishan Royu
Mr. Souvik Das
Mr. Anamitra Banerjee
Mr. Sreyash Kumar Singh
Mr. Akbar Laskar
Ms. Moupia Chakraborty.....for the O.P. 2

This instant revisional application has been filed by the petitioner/ wife challenging the order dated 21st March, 2024 passed by the court of learned 1st Judicial Magistrate at Basirhat, District North 24 Parganas, whereby and where under the trial court reduced the interim maintenance to the tune of Rs. 5000/- from Rs. 15,000/-in favour of the petitioner/wife in a proceeding under Section 125 of the CrPC.

Earlier interim maintenance allowed was Rs. 15,000/- per month to the petitioner's wife on 27.11.2020 in Misc. case no. 194 of 2018.

It is an admitted fact that the petitioner and the opposite party/husband got married in the year 1997 as per Hindu Rights and Customs. Due to their matrimonial discord she is residing separately. She had no income to maintain herself, therefore, she filed application for maintenance. The opposite party refused and neglected to maintain her.

Initially an order of interim maintenance was allowed to the tune of Rs. 15,000/- per month in favour of the petitioner considering the prima facie case of the petitioner.

Being aggrieved by and dissatisfied with the said interim order, the husband/opposite party filed a revisional application before the Sessions Judge being revisional application no. 1 of 2021. It was transferred to the learned Additional District & Sessions Judge, Fast Track Court no. 2, Basirhat, North 24- Parganas for its disposal.

After hearing the respective parties, the learned Judge set aside the order and disposed of the revisional application and further directed the Trial Court to hear the petition for interim maintenance afresh after taking into consideration the assets and liabilities of both parties after they have declared the same and also after taking into account all the documents filed by the Opposite Party and the petitioner and, thereafter, pass an order as deemed fit and proper.

Both the parties filed their respective affidavit of assets in view of the judgement passed by the Hon'ble

Supreme Court in the case of ***Rajnish Vs. Neha & Anr.*** reported in ***(2021) 2 SCC 324***. However, the trial court did not consider the same properly and reduced the interim maintenance from Rs. 15000/- to 5000/- without assigning any reason, which is the subject matter of challenge in this revisional application.

Having heard the submission of both the sides and upon perusal of the affidavit of assets and liabilities filed by the parties before the Trial Court, this court finds that the income of the husband has been shown to cash Rs. 280851/- per year. Learned counsel appearing on behalf of the petitioner disputed such disclosure and filed xerox copy of RTI information, wherefrom it is revealed that his income was Rs. 41,325 in the month of February, 2022.

Considering the above facts and circumstances, this court finds there is no dispute regarding the marital status and the husband is obliged to maintain the petitioner if she is unable to maintain herself. This court is of the further view that the matter is required to be remanded back to the trial court to decide the matter afresh, as such the impugned order dated 21.03.2024 shall stand set aside.

The Trial court will decide the case afresh considering the assets and liabilities of the parties and other factors upon giving opportunity of hearing to the both side and decide the same as expeditiously as possible without granting unnecessary adjournment.

In the mean time, over all consideration of the submission and prima facie material available on record, the opposite party no. 1/husband is directed to pay a sum of Rs. 10,000/- to the petitioner/wife from the date of filing of the application under Section 125 of the Criminal procedure code as interim maintenance. The interim maintenance shall be paid within the 10th day of each succeeding English calendar month to the petitioner and arrears of maintenance, if any, shall be paid by the opposite party/husband in 4 installments within 6 month from this order. In default, the Petitioner shall be at liberty to take appropriate steps for realization of arrear in accordance with law.

With above observation, the revisional application being **CRR 2672 of 2024** is, thus, disposed of. Connected applications, if any, are also, thus, disposed of.

Interim order if any, stands, vacated.

Let the copy of this order be communicated to the learned trial court for information and necessary compliance.

All parties shall act in terms of the copy of this order downloaded from the official website of this court.

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

(Ajay Kumar Gupta, J.)