13.11.2026
29
sb

CRR 4332 of 2025
with
CRAN 1 of 2025

Joy Mondal
Vs.
The State of West Bengal & Anr.

Mr. Gunjon Kr. Singh
Ms. Rupsa Maity
Mr. Rima Mondal
Mr. Niranjan Yadav ...for the Petitioner

Ms. Chaitali Bhattacharya
Mr. Subhendu Roychowdhury ...for the O.P. no. 2

In this application, the petitioner has assailed the order dated 2nd April, 2025 passed in M. case no. 349 of 2024 by which the court below has directed the petitioner herein/husband to pay interim maintenance to the opposite party to the tune of Rs. 5,000/- per month for herself from the date of application i.e. on 2.7.2024 and was further directed to clear the arrear maintenance in 10 equal installments.

Being aggrieved by the aforesaid interim maintenance order passed by the court below, learned counsel for the petitioner submits that the opposite party herein resided at her matrimonial house only for a period of one month. The opposite party herein also lodged criminal proceeding falsely with the allegation that she was subjected to cruelty both physically and mentally. In fact, the opposite party no. 2 being the wife, had caused immense cruelty upon her husband and

the marriage was never consummated as she willfully refused to have any physical relationship with the petitioner. The petitioner being a teacher in the State Government sponsored school, holds a respectable position in the society.

Learned counsel for the petitioner referred a judgment of the Apex Court in the case of **Parvin Kumar Jain Vs. Anju Jain** reported in **AIR 2025 SC 128** and contended that the Apex court have laid down the factors to be examined which includes the period of cohabitation between the parties, the period of separation, the attempts made for reconciliation, nature and gravity of allegations made between the parties and such other similar factors. Here the petitioner resided at her matrimonial house only for one month and therefore, she is not entitled to get any sort of maintenance. He further submits that the Apex Court further made it clear in that the provision under Section 125 of the Code of Criminal Procedure aims at protecting the interests of the dependent spouse and does not provide for penalizing the other spouse in the process. He further submits that from the affidavit of assets and liabilities filed by the opposite party/wife, it appears that she is well educated and therefore, she has capacity to earn her livelihood but instead of making any attempt to earn her livelihood, she has instituted the instant proceeding with mala fide intention at the instigation of one of his boy friend.

Learned counsel for the opposite party submits that the order impugned is interim in nature and is quite justified and does not call for interference by this court and the Trial court may be directed to expedite the final hearing of the maintenance proceeding.

On perusal of the affidavit of assets and liabilities submitted by both the parties, it appears that the husband had disclosed that his monthly income is Rs. 30,354/-. Learned counsel for the petitioner submits that he has many other liabilities in his family which includes his parents and two sisters, who are aged about 25 and 23 years.

Having considered the facts and circumstances of the case, I am of the view that in such cases, the workable formula is to award 1/5th of the husband's income towards interim measure subject to fulfillment of other parameters. Therefore, prima facie the order impugned by which the court below has awarded maintenance of Rs. 5,000/- per month to the petitioner, appears to be not perverse nor suffers from impropriety and therefore does not call for interference by this court at this stage. Moreover, the order is interim in nature and therefore, the Trial court is directed to dispose of the opposite party/wife's application under Section 125 of the Code as expeditiously as possible preferably within a period of six months from the next date of hearing. The observation

made herein shall be restricted for the purpose of disposal of interim maintenance application only.

In such view of above, CRR 4332 of 2025 along with connected application being CRAN 1 of 2025 thus stand dismissed.

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

(Dr. Ajoy Kumar Mukherjee, J.)