

25.06.2026

Sl no. 12

Ct no. 2

P.M.

C.O. 4338 of 2023

+

CAN 1 of 2025

Sri Manish Kumar Bannerjee

- Vs -

Smt. Tanuja Banerjee nee Chakraborty

Mr. Somenath Mukherjee

Mr. Bineet Kumar Singh

... for the petitioner.

Mr. Dibakar Bhattacharjee,

Mr. Rakesh Kr. Pandey,

... for the opposite party

- 1.** Present petition has been filed for challenging the order dated 5th September, 2023 whereby the learned Additional District Judge, First Track Court – II Barrackpore has inter alia directed the petitioner/husband to pay Rs. 5,000/- per month to the opposite party/wife as alimony pendente lite and Rs. 10,000/- for litigation cost.
- 2.** Learned counsel for the petitioner submits that the learned Trial Court despite having direction of this Court passed in C.O. 2634 of 2022 has passed the order mechanically without taking into account the income and liability of the petitioner/husband.

3. Perusal of the record indicates that initially an order No. 13 dated 2nd August, 2022 was passed by the learned Additional District and Sessions Judge granting alimony pendente lite in the sum of Rs. 3,000/- per month to the opposite party/wife.
4. Learned Trial Judge had not awarded the litigation cost. This order was challenged by the petitioner/husband before this Court in C.O. 2634 of 2022.
5. The co-ordinate Bench of this Court while disposing of the petition inter alia made following directions :

“The impugned order is thus set aside with a direction upon the court below to hear out the prayer for alimony pendente lite under Section 36 of the Hindu Marriage Act afresh within ten weeks from the date of communication of this order to the courtbelow.

Until decision of alimony pendente lite afresh, as an interim arrangement, the opposite

party/husband is directed to pay Rs.4,000/- (Rupees Four Thousand) per month with effect from the date of this order.

The income document of the husband, as mentioned hereinabove, may be furnished within three weeks from the date of communication of this order to the court below, upon supplying copy of the same well in advance to the petitioner.

Petitioner has every right to challenge the income document by producing some convincing material at the time of hearing of alimony pendente lite application afresh. The litigation cost is left to be decided by the court below at the time of final hearing of this alimony pendente lite.

It is however, clarified that while assessing the quantum of alimony pendente lite afresh, the commitment and liability of the

husband if any, may also be taken care of so that the justice may be best ensured to both the parties.”

- 6.** The matter was remanded back to the learned Trial Court. Learned Trial Court thereafter passed the impugned order which is reproduced below : -

“Order No. 18 dated 05.09.2023

Record is taken up for order regarding petition u/s 36 S.M. Act.

Both parties filed hazira.

Heard petition and objection.

Perused. Considered.

This is a case filed by the husband/petitioner for restitution for conjugal rights. Wife/respondent filed instant petition praying for alimony pendente lite amounting to Rs. 12,000/- per month as alimony pendente lite and Rs. 3,000/- per month as litigation cost. According to the wife’s case husband is an engineer and is working in a private firm having income of Rs. 20,000/- per month. Respondent is having no source of income as her own.

It is the case of the husband that wife has left the house accordingly. Whatever be the

fact the wife is legally entitled to alimony pendente lite. So long the suit is pending and it is the matter to be determined on the basis of detailed evidence as to whether the wife left the matrimonial house.

Accordingly, intentionally, or being compelled to husband has filed assets and liabilities. Wife has also filed assets and liabilities.

Perusing the document on record as well as considering both parties' case I direct the husband/respondent of the suit to pay Rs. 5,000/- (Five thousand) per month to the wife as alimony pendente lite and Rs. 10,000/- (Ten thousand only) as litigation cost.

Fixing 18.12.2023 for issue."

- 7.** Bare perusal of this order makes it clear that the learned Additional District Judge has passed the order mechanically without giving any sufficient and cogent reasons for awarding a sum of Rs. 5,000/- per month as an alimony. The direction of this Court thus was not taken into account for considering income and liability of both the parties.

- 8.** This court considers that passing of such an order by the learned Additional District Judge despite directions of this Court cannot be appreciated. Learned Trial Court was bound to pass the order giving sufficient and cogent reasons. It is pertinent to mention that the reasons are the lifeline of any judicial order. Any judicial order bereft of the reasons cannot meet the standard of principle of natural justice and scrutiny by superior court.
- 9.** In the circumstances the impugned order is set aside. The matter is remanded back to the learned Trial Court. Learned Trial Court shall decide the application under Section 36 by a reasoned order taking into account the income, liability, assets and all attendant circumstances of the husband and wife within two weeks of the receipt of this order.
- 10.** With this observation and direction this petition stands disposed of.

11. However, it is made clear that this Court has not gone into the merits of the case and no expression made herein shall tantamount to be in expression on the merits of the case.
12. The learned Trial Court is directed to send the compliance report regarding the disposal of the application within stipulated time.
13. Urgent photostat certified copy of this order, duly applied for, be given to the parties upon compliance of all usual requisite formalities.

(Dinesh Kumar Sharma, J.)