

Form No. J(2)

***IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION***

Present:

The Hon'ble Justice Jay Sengupta

C.R.R. 536 of 2019

Debi Kar

-vs-

Deb Kumar Kar & Anr.

For the Petitioner : Mr. Madan Murari Verma

Heard on : 12.07.2021

Judgment on : 12.07.2021

Jay Sengupta, J.:

This is an application challenging an order dated 10.08.2018 passed by the learned Judicial Magistrate, Barrackpore, North 24 Parganas in M. Case No.329 of 2017 under Section 125 of the Code, thereby granting interim maintenance to the tune of Rs.2,000/- to the petitioner/wife.

Affidavit-of-service filed by the petitioner is taken on record. Despite service, no one appears on behalf of the private opposite party.

Learned counsel appearing on behalf of the petitioner wife submits as follows. The petitioner is the wife of the opposite party no.1. She is a cancer patient. Ever since their marriage in 1992, the petitioner was mentally and physically tortured by the opposite party and her family members. In fact, the husband also developed an illicit relation with another woman. The opposite party no.1/husband happens to be a Government licenced electrical contractor and earns more than Rs.90,000/- per month. Although, the petitioner claimed Rs.35,000/- per month towards her maintenance, a paltry sum of Rs.2,000/- was granted as interim maintenance, that too from the date of order. This is too meagre a sum even for the basic sustenance of the petitioner. She has to take medicines valued at more than Rs.2,000/- per month. Reliance has been placed on a Consolidated Account Statement of the NSDL of the opposite party no.1 showing that he has shares valued at more than Rs.42 lakhs as on 31.12.2018. Besides, he has other immovable assets. Although the learned trial court would be in a position to fix the final amount of maintenance after taking evidence, as of now at least a reasonable enhancement of the sum granted as interim maintenance needs to be awarded so that the petitioner can sustain herself.

I have heard the submissions of the learned counsel appearing on behalf of the petitioner and have perused the revision petition.

From the impugned order it appears that the husband's case was that he was not earning anything and was suffering from carcinoma. A bald assertion of no income cannot be of much significance.

In any event, the husband has chosen not to present his case before this Court.

Although the learned trial court discussed the averments made by the petitioner/wife in her application under Section 125 of the Code and even opined that a healthy able bodied man cannot be relieved maintaining his wife merely on the ground that he is an unemployed or has a little very income, it arrived at the paltry sum of Rs.2,000/- to be awarded as interim maintenance to the petitioner.

The sum of Rs.2,000/- per month roughly comes to about Rs.66/- per day, which is grossly insufficient by today's standards to maintain a married lady, that too one who has been suffering from cancer.

The document filed regarding assets of the husband, the assertions made by the wife that the husband is an electrical

contractor licensed by the Government and earns about Rs.90,000/- per month and the fact that the wife has been suffering from cancer and has to undergo regular treatment and medication are relevant factors to be taken into account.

It is also to be remembered that a wife is to be maintained by her husband at the standard that she would have enjoyed had she been able to live at her husband's household.

Moreover, it has been made clear by the Hon'ble Apex Court in the case of Rajnesh -vs- Neha & Anr., (2021) 2 SCC 324 that ordinarily maintenance has to be awarded from the date of application and not from the date of the order.

In view of the apparent social standing of the couple, the medical condition of the petitioner and the rising price indices, I consider it fit and proper that the husband opposite party should pay a sum of Rs.10,000/- per month as interim maintenance allowance to the wife petitioner, payable from the date of the application.

Accordingly, I direct that the husband shall pay interim maintenance allowance at the rate of Rs.10,000/- per month to the wife petitioner, payable from the date of the application, till disposal of the main application.

I request the learned trial court to conclude the proceeding as expeditiously as possible without granting any unnecessary adjournment to any of the parties, preferably within a period of six months from the next date of hearing.

The Learned Trial Court shall not be swayed by the observations made herein as the same were made only for deciding the issue of interim maintenance.

With these observations, the revisional application is disposed of.

Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Jay Sengupta, J.)