

IN THE COURT OF THE ADDITIONAL SESSIONS JUDGE,
FAST TRACK 1st COURT, LALBAGH, DISTRICT- MURSHIDABAD.

Crl. Revision Case No. 47/2022 (33/2022)

CNR No. - WBMD05-001091-2022.

Present : Mr. S. A. Ansari
Addl. Sessions Judge,
F.T.C-I, Lalbagh, Murshidabad

Petitioner/Revisionist : Siddik Sk.

Opposite Parties : 1) Hamejuddin Sk.
2) State of West Bengal.
(Represented By PP-in-charge, Lalbagh)

Counsel for petitioner/revisionist : Mr. Musaraf Hossain

Counsel for opposite parties : PP-in-charge, Lalbagh, Murshidabad,
West Bengal.

Date of hearing : 04.01.2023 at 11:50 to 12:30 pm.

Date of Judgement : 04.01.2023 at 02:00 pm.

J u d g e m e n t

The Criminal Revision has been preferred by the petitioner/revisionist Mr. Siddik Sk. against the order dt. 02.06.2022 passed by the Ld. Judicial Magistrate, 1st Class, Additional Judicial Magistrate, Lalbagh, Murshidabad in connection with M.R Case no.227/2020.

The facts relevant for consideration of the revision petition are, in brief, as follows :

a) Whether the order of the Ld. Court below directed the revisionist to pay to the petitioner/OP interim maintenance to the tune of Rs. 2,500/- per month for the minor Sajida Khatun is warranting any interference of the Revision Court to see and to weigh the order of Ld. Court below based on law or not.

ARGUMENT

Both sides are present and argument is heard.

1) Being highly aggrieved and dissatisfied with the impugned order of the Ld. Court

below this revision has been preferred on following grounds as mentioned in the petition :

- a) That the impugned Order is unjust, illegal and arbitrary without having any jurisdiction.
- b) That the Ld. Court below failed to appreciate the physical condition of the petitioner who is special able person to the extent of 91% and prayed for setting aside the impugned order of Ld. Court below.

DECISION WITH THE REASONS

The revision application of the revisionist came into being for this case is for the order of interim maintenance allowance passed by the Ld. Court below in favour of the OP/petitioner. Now it is very much necessary to give focus on the aspect that under what circumstances the Court can pass an order of interim maintenance allowance and to what extent this Order will pave the way to the OP/petitioner to prevent vagrancy and destitution, of course, a matter speculation which is logically based on legal concept of providing a wife and children with food, clothing and lodging although the concept of providing a wife merely with food, clothing and lodging as if she is only a chattel and has to depend on the sweet will and mercy of the husband has now become completely outdated and absolutely archaic. The object of maintenance whether it is interim in form is to prevent vagrancy and destitution, it has to be found out what is required by the wife to maintain a standard of living which is neither luxurious nor penurious, but it is modestly consistent with the status of the family. It is also necessary to look into the earning of the husband and, his capacity to earn and his commitments because these are the relevant factors in considering the prayer of the wife praying for maintenance herself and minor child. It cannot be denied by any one that when the wife pleads that she and her minor child are surviving with great difficulty, that is sufficient to satisfy the requirement for her claim for maintenance. It is also correct to hold that when the Ld. Court below was considering the prayer of interim maintenance allowance of OP/petitioner, of course, the revisionist/OP has failed to place the documents amounting to the employment of the

OP/petitioner.

The case in hand is showing the Order of interim maintenance allowance passed by Ld. Court below is for the purpose of the minor child of the OP/petitioner not passed maintenance allowance in the form of interim for OP/petitioner. Be that as it may the Order passed by the Ld. Court below in the form of interim maintenance allowance to the OP/petitioner for the minor child of her is having no illegality and not based on surmise and conjecture with the putrefaction of law.

In the premises, I have no hesitation to hold that there is no merit in this Criminal Revision Case and accordingly the present Criminal Revision Case is deserving for the dismissal.

CF paid is correct.

Hence it is

ORDERED

That the Order of Ld. Court below i.e. the Order of Ld. Judicial Magistrate, 1st Class, Additional Judicial Magistrate, Lalbagh, Murshidabad passed on 02.06.2022 in connection with M.R. Case no.227/2020 is hereby affirmed.

Let this order be sent to the Ld. Court below i.e. Ld. Judicial Magistrate, 1st Class, Additional Judicial Magistrate, Lalbagh, Murshidabad.

Dictated & Corrected by me,

Addl. Sessions Judge
1st Fast Track Court,
Lalbagh, Murshidabad.

Addl. Sessions Judge,
1st Fast Track Court,
Lalbagh, Murshidabad.
JO Code : W.B.00713