

11. 05.03.2025
Court No.16.

(Pritam)

FA 123 of 2024
with
CAN 2 of 2024

Debjani Bhattacharya nee Ganguly

-Vs.-

Nirmalya Bhattacharyya.

Mr. Surya Prasad Chattopadhyay,
Mr. Arjun Samanta,
Ms. Trishtrya Mancherji

.....for the appellant.

Mr. M.P. Gupta Sen,
Mr. Shankar Sarkar,
Ms. Shinjita Ray,
Mr. Sartak Singh,
Mr. Aditya Sinha

.....for the respondent.

In Re:- CAN 2 of 2024.

1. Heard learned advocate for the parties.
2. The present application is captioned as one for “enhancement of alimony *pendente lite*”, whereas it is the first alimony application filed in connection with the appeal. It is submitted by learned counsel for the appellant that the respondent/husband has been paying alimony at the rate of Rs.20,000/- even after the impugned decree, at the rate as directed at the *pendente lite* stage by the learned Trial Judge. The break-up for the same was Rs.12,000/- for the

appellant/wife and Rs.8,000/- for the minor daughter of the parties.

3. It is submitted that the daughter of the parties is now studying in Class-XII of a CBSE Board school and is studying Science, which is also reflected from the laboratory expenses borne by the appellant for the study of her daughter, as evident from the annexures to the wife's pleadings and affidavit of assets.
4. The appellant claims an amount of Rs.20,000/-for herself and Rs.35,000/- for her minor daughter, totalling to Rs.55,000/-. The learned advocate for the appellant relies on the affidavit-of-assets filed by the wife as well as the annexures to her alimony application.
5. The learned counsel appearing for the respondent submits that the respondent is also having to bear huge expenses for running his household and bear the premiums and instalments for several investments made by him. That apart, it is submitted that when the respondent/husband was earning Rs.70,000/- per month, alimony at the rate of 20,000/-, compositely for the wife and the daughter, was granted by the learned Trial Judge in the year 2019.
6. Hence, within about five years, there have been, apart from the increase of the husband's income of about Rs.20,000/- per month, no change of circumstance

has taken place to enhance the alimony from that granted by the learned Trial Judge.

7. We have carefully perused the application and the opposition as well as the reply and the affidavits-of-assets filed by both the parties. Upon granting the husband the benefit of the statutory deductions on account of provident fund and income tax, the husband's monthly income comes also to a net amount of Rs.1 lakh.
8. On the other hand, the appellant/wife is earning Rs.12,666/- per month as a para-teacher as well as approximately Rs.5,000/- per month from her investments, totalling an amount of Rs.17,766/- per month. By adding to the same the income of the wife from alimony being paid to her by the husband to the tune of Rs.12,000/-, we find that roughly about Rs.30,000/- is being earned monthly by the wife. As such, we deem the said sum to be sufficient for the appellant/wife to maintain herself and there is no further requirement to enhance the alimony of the wife from the amount of Rs.12,000/- per month.
9. Insofar as the daughter is concerned, she is studying in the twelfth standard in a CBSE Board school, having opted for the Science stream, and has several expenses commensurate with the needs of a growing girl of her age.

10. Although we don't subscribe to the claim of the wife to the tune of more than Rs.43,000/- per month for her daughter, as disclosed in the wife's affidavit-of-assets and the annexure to the application for alimony application, we are of the opinion that an amount of Rs.18,000/- per month would suffice to meet the liability of the respondent-husband for the expenses of the daughter.
11. Insofar as the daughter is concerned, both the earning parents have some liability to meet her expenses and hence, the rest of the expenses of the daughter over and above Rs. 18,000/- per month should be borne by the appellant-wife.
12. Thus, we fix the liability of the respondent-husband to pay monthly alimony for the appellant-wife at the rate of Rs. 12,000/- and for the daughter of the parties at the rate of Rs. 18,000/-, taking the total amount of alimony payable by the husband to Rs.30,000/-, which is approximately commensurate with one-third of his income of Rs.1 lakh.
13. Accordingly, CAN 2 of 2024 is disposed of on contest without costs, thereby directing the respondent-husband to pay a composite amount of Rs.30,000/- per month (Rs.12,000/- for the appellant/wife and Rs.18,000/- for the daughter of the parties) as alimony *pendente lite* to the appellant during the pendency of the appeal.

14. In view of the earlier payments having already been made by the respondent/husband and the respondent/husband having shown his *bone fides* on such score, we decide to grant such alimony from the date of filing of the present application, that is, from the month of November, 2024.
15. The current alimony for the appellant and her daughter, at the rate of Rs.30,000/- per month, shall be paid by the respondent/husband to the wife by the 15th day of each current month, the first of which shall be paid by March 15, 2025, for the month of March, 2025, and thereafter by the 15th day of each succeeding month.
16. The arrears of alimony from November 2024 till February 2025 shall be paid by the respondent/husband in two equal monthly instalments. The first of such instalments shall be paid by March 31, 2025 and the next instalment shall be paid by April 30, 2025.
17. There will be no order as to costs.
18. In view of the appearance of the respondent through his learned counsel, service of notice of the appeal on the respondent is dispensed with.
19. In order to expedite the appeal and on the prayer of learned counsel for the respondent-husband, the Trial Court records are directed to be brought by

Special Messenger at the cost of the respondent, to be deposited within a week from date.

20. Upon service of notice of arrival of the Trial Court records on the learned advocate for the respondent, the respondent shall prepare and file the requisite number of paper books within eight weeks thereafter.
21. For such purpose, upon the Trial Court records arriving before this Court and being examined and found to be complete, notice of such arrival shall also be given to the learned advocate for the respondent.
22. Liberty to the parties to mention the appeal for inclusion in the list as and when the same is ready for hearing.

(Sabyasachi Bhattacharyya, J.)

(Uday Kumar, J.)