

(2014) 12 CAL CK 0034

Calcutta High Court

Case No: C.R.R. No. 1693 of 2014

Anjali Roy

APPELLANT

Vs

Sreekant Roy

RESPONDENT

Date of Decision: Dec. 24, 2014

Acts Referred:

- Criminal Procedure Code, 1973 (CrPC) - Section 125

Hon'ble Judges: S. Chatterjee, J

Bench: Single Bench

Advocate: Prabir Kumar Mitra, Learned Advocate, Advocate for the Appellant; Sabyasachi Banerjee and Abhijit Chowdhury, Advocate for the Respondent

Judgement

Samapti Chatterjee, J.

The petitioner has preferred this revisional application assailing the Order dated 24th January, 2014 passed by the learned Judicial Magistrate, 5th Court, Serampore Hooghly in Misc. Case No. 21 of 2013 under Section 125 of the Code of Criminal Procedure thereby granting interim maintenance of Rupees Three thousand only towards the petitioner and Rupees Two thousand only for her minor daughter.

2. Mr. Prabir Mitra, learned Advocate appearing for the petitioner submitted that initially the petitioner filed an application before the learned Judicial Magistrate, 5th Court Serampore, Hooghly for the maintenance of the petitioner and her minor daughter to the tune of Rupees Ten thousand each but the learned Judicial magistrate, 5th Court Serampore, Hooghly by his Order dated 24th January, 2014 only allowed the interim maintenance of Rupees Three thousand per month to the petitioner and Rupees Two thousand per month to her minor daughter without considering the current market condition.

3. Mr. Mitra further contended that when the petitioner has been struggling to maintain herself and her minor daughter then the opposite party is enjoying his family life illegally marrying someone (namely Priti Chopra) even before any decree

declaring his marriage as dissolved with the petitioner from any competent Court. Furthermore, out of that illegal wedlock two children (sons) were born.

4. Mr. Mitra further contended that the marriage between the petitioner and the opposite party is still subsisting.

5. Mr. Mitra further vehemently urged that those two children (sons) (born out of that illegal marriage with Mrs. Priti Chopra) are studying in one of the costliest school in the city namely Heritage School and the opposite party is easily bearing the monthly tuition fee of Rupees Ten thousand for each son, thus depriving the petitioner and her daughter from their legitimate expectation of maintenance of which they are entitled to being the legally married wife and daughter.

6. Mr. Mitra further pointed out that the interim maintenance as granted by the learned Judicial Magistrate, 5th Court, Serampore Hooghly towards the petitioner and her minor daughter is very insufficient and meager considering the income of the opposite party and also considering the present market condition. Therefore, Mr. Mitra contended that the Hon"ble Court should enhance the interim maintenance after setting aside the impugned order dated 24th January, 2014.

7. Mr. Banerjee, learned Advocate appearing for the opposite party after contesting the submission made by the petitioner submitted that whatever the amount has been fixed by the learned Judicial Magistrate, 5th Court, Serampore, Hooghly towards the wife and the daughter is adequate and the order of the learned Judicial Magistrate, 5th Court, Serampore, Hooghly should not be disturbed by this Hon"ble Court.

8. Considering the rival submissions advanced by the Counsels of the parties and also considering the monthly income of the opposite party as indicated by the present petitioner in the petition I am of the view that the interim maintenance amount fixed by the learned Judicial Magistrate, 5th Court, Serampore, Hooghly towards the wife/petitioner and her minor daughter is not at all adequate or sufficient, considering the financial condition of the petitioner as well as present market condition. Therefore, I enhance the interim maintenance of the petitioner from Rupees Three thousand to Rupees Four thousand per month and the interim maintenance of the minor daughter from Rs. 2000/- (Rupees Two thousand) to Rs. 4000/- (Rupees Four thousand) per month after setting aside the impugned Order dated 24th January, 2014 passed by the Judicial Magistrate, 5th Court, Serampore, Hooghly and I direct that the opposite party shall go on paying Rs. 4000/- (Rupees Four thousand) instead of Rs. 3000/- (Rupees Three thousand) to the wife/petitioner as interim maintenance per month and also go on making monthly payment of Rs. 4000/- (Rupees Four thousand) instead of Rs. 2000/- (Rupees Two thousand) towards the minor daughter.

9. I further direct that the maintenance in respect wife and the daughter shall be paid within 7 (seven) days of each calendar month.

10. I make it clear that this enhancement of maintenance is an interim arrangement pending final disposal of the Misc. Case No. 21 of 2013 arising out of Section 125 of the Code of Criminal Procedure by the Learned Judicial Magistrate, 5th Court, Serampore, Hooghly.

11. Accordingly the revision petition being CRR No. 1693 of 2014 is disposed of.

12. Photostat certified copy of the order, if applied for, be given to the parties on urgent basis.