

ITEM NO.40

COURT NO.4

SECTION II-B

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Crl.) D.No(s). 23582/2024

(Arising out of impugned final judgment and order dated 14-05-2024 in CRR No. 2743/2014 passed by the High Court at Calcutta)

BASUDHA CHAKRABORTY & ANR.

Petitioner(s)

VERSUS

NEETA CHAKRABORTY

Respondent(s)

Date : 20-05-2024 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE DIPANKAR DATTA
HON'BLE MR. JUSTICE SATISH CHANDRA SHARMA

For Petitioner(s) Mr. Pinak Kumar Mitra, Adv.
Mr. Binish Kumar, Adv.
Mr. Rishabh Singhle, Adv.
Mr. Sujoy Chatterjee, AOR

For Respondent(s)

UPON hearing the counsel the Court made the following

O R D E R

Aggrieved by the order dated 14th May, 2024 passed by the High Court at Calcutta on a criminal revisional application, the petitioners in such application are before us.

Issue notice, returnable in the week commencing 15th July, 2024.

The petitioners did not appear before the High Court on 14th May, 2024. The impugned order requires the Registrar of such Court named therein to request the Registrar General, High Court of Bombay *"to intimate the concerned Police Station to produce both the petitioners before the court on the next date of hearing"*,

i.e., 22nd May, 2024.

A previous order of the same Court dated 31st January, 2024 notes the Court's desire to interact with the parties to the proceedings before it and with that in view, the parties were required to be present before it on 8th April, 2024.

On 8th April, 2024, the petitioner no.1 was present before the Court physically. The petitioner no.2, however, could not remain present due to medical issues which were duly brought to the attention of the Court and noted by it; yet, the penultimate paragraph of the order dated 8th April, 2024 records, rather strangely, that the Court *"insists the presence of the petitioner no.2 on the next date of hearing"*, i.e. 14th May, 2024. An observation appears to have been made by the Court to the effect that the medical documents which were filed did not reflect the petitioner no.2 being so medically incapacitated that he could not appear on 14th May, 2024, as fixed by the earlier order dated 08th April, 2024.

Owing to the petitioner no.2 not remaining present on 14th May, 2024, both the petitioners are now required to personally remain present in Court on 22nd May, 2024 on being produced by the police.

We have failed to comprehend the necessity of the direction of the High Court insisting for personal presence of the petitioner no.2 in Court in-person, despite being apprised that the petitioner no.2 has been suffering from severe medical conditions. From the materials placed on record we find that not only did the petitioner no.2 undergo an organ transplant in the recent past, he is afflicted by other ailments too calling for a surgery thus making

it inadvisable for him to travel to Kolkata for attending court proceedings physically. That apart, the petitioner no.1 had physically appeared before the Court on 8th April, 2024 in deference to the order dated 31st January, 2024, yet, she too has been ordered to be produced in court by the police without apparent justification.

We are also at loss to comprehend as to why despite the advancement of science and technology and with the introduction of facilities for virtual hearing in the High Courts, the Court did not consider it desirable to grant liberty to the two petitioners to appear before it through the virtual mode.

The dispute that the High Court is seized of arises out of a marital discord between the spouses and the situation, *prima facie*, was not such so as to call for the Court's insistence for personal presence of both the petitioners including the ailing petitioner no.2 by taking an arduous journey from a distant place like Mumbai despite his medical conditions. If the Court thought it fit to interact and bring about a settlement between the parties, an attempt to achieve it by allowing the petitioners to attend proceedings through the virtual mode ought to have been made.

The impugned order is bound to operate harshly against the petitioners. We expect the Court to exercise restraint unless any party repeatedly acts in breach of its order to undermine its dignity, prestige and majesty, thereby attracting the contempt jurisdiction. Exercise of discretion judiciously could have prevented the proceedings from reaching this Court.

For the reasons aforesaid, we have no hesitation in staying

operation of the order requiring the personal appearance of both the petitioners on 22nd May, 2024. Since the revisional application is fixed for consideration on that date, we grant both the petitioners the liberty to appear before the Court through the virtual mode.

(JATINDER KAUR)
P.S. to REGISTRAR

(SUDHIR KUMAR SHARMA)
COURT MASTER (NSH)