

21.01.2020
RP/ct 1
sl no. 07

**CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI**

C.R.R. 3 of 2020

Nirendra Nath Roy vs. State of West Bengal & Ors.

Mr. Jaydeep Kanta Bhowmik
..... for applicant

Mr. Bhowmik, learned advocate appears on behalf of applicant in this criminal revision. He submits, his client is aggrieved by order dated 9th September, 2019. Warrant was issued by said order, execution report fixed for that day and thereafter adjourned dated fixed on 4th November, 2019. He draws attention to earlier orders passed to submit, his client's wife is now residing with his client. The application for maintenance was made and thereafter there was reconciliation and they have since been blessed with a baby. It is true that direction for payment of interim maintenance was not complied with by his client, for approximate aggregate amount of Rs.6,00,000/- but he reiterates reconciliation and togetherness of his client and his wife. He seeks interference.

First proviso under sub-section (3) in section 125 of Code of Criminal Procedure, 1973 says no warrant shall be issued for recovering any amount due under the section unless application has been made to Court to levy such amount within period prescribed. The second proviso is not attracted in this case.

There may be typographical error in impugned order requiring execution report to be filed on that date when warrant

was issued on omission in the order to state about its issuance. That aside, the warrant appears to have been issued upon an application duly made by the wife for recovery of amount due. It appears that the wife is now living with applicant. In the circumstances, this criminal revision is disposed of on observation made for applicant to persuade his wife to withdraw her application.

(Arindam Sinha, J.)