

IN THE HIGH COURT AT CALCUTTA

Criminal Revisional Jurisdiction

Before:

The Hon'ble Mr. Justice Jay Sengupta

C.R.R. 167 of 2021

Moumita Chakraborty

Vs.

State of West Bengal & Anr.

For the Petitioner	:	Mr. Ajay Debnath, Mr. Sujt Saha, Mr. Debanjan Das, Ms. Swagata Datta.
For the Opposite Party No.2.	:	Mr. Ayan Bhattacharjee, Mr. Md. Zohaib Rauf.
Heard on	:	18.02.2021
Judgement on	:	18.02.2021

Jay Sengupta, J. :

1. This is an application challenging the impugned order dated 24.12.2020 passed by the learned Judicial Magistrate, 5th Court, Barrackpore, North 24-Parganas being Case No. M-184 of 2019 under Section 125 of the Code.
2. Learned Counsel appearing on behalf of the petitioner submits as follows.
The learned Trial Magistrate had earlier fixed a date for hearing of the application under Section 340 of the Code filed by the husband instead of

passing any order on the application for interim maintenance allowance filed by the petitioner/wife. By an order dated 13.10.2020 passed in CRR No. 563 of 2020, this Court had directed the learned Trial Magistrate to dispose of both the applications, the one for interim maintenance and the other under Section 340 of the Code expeditiously and independently. Despite bringing this order to the notice of the learned Trial Court on 24.02.2020, the learned Trial Court simply passed an order fixing 4th February, 2021 as a date for hearing of the application under Section 340 of the Code while not dealing with the application for interim maintenance at all. This is a contemptuous act committed by the learned Trial Magistrate and the impugned order ought to be set out. It is further prayed that the proceeding may be transferred from the Court of the learned Trial Magistrate to any other competent Court.

3. Learned Counsel appearing on behalf of the opposite party no.2 submits as follows. The impugned order passed by the learned Magistrate, thereby dealing only with the application under Section 340 of the Code and not with the application for interim maintenance, could not be supported. The learned Magistrate may be directed to fix a date for hearing of both the applications, one after the other.
4. I have heard the submissions of the learned Counsels appearing on behalf of the parties and have perused the revision petition.

5. It is unfortunate that despite being notified about the order passed by this Court, the learned Trial Magistrate did not think it fit to deal with the application for interim maintenance of the wife expeditiously, but chose to follow the earlier course by fixing the hearing of the application under Section 340 of the Code.
6. It is quite obvious that a wife could not be made to pass her days in penury when an application for interim maintenance filed by her remains pending. Such application should be disposed of at the earliest, regardless of whether any application under Section 340 of the Code is filed by the husband on some ground or the other.
7. It appears that the concerned Learned Magistrate has scant regard for the hierarchy of Courts and has clearly flouted the directions passed by this Court.
8. In the facts and circumstances of the case, where the learned Trial Magistrate clearly failed to comply with the order passed by this Court, I am constrained to set aside the impugned order dated 24.12.2020 passed by the learned Magistrate, thereby fixing a date merely for hearing of the petitioner under Section 340 of the Code and to direct the learned Additional Chief Judicial Magistrate, Barrackpore, North 24-Parganas to

withdraw the application under Section 125 of the Code in Case No.184 of 2019 under Section 125 of the Code along with all the connected applications to his own file and dispose of the same as expeditiously as possible.

9. With these observations, the revisional application is disposed of.
10. Urgent photostat certified copy of this order may be supplied to the parties expeditiously, if applied for.

(Jay Sengupta, J.)