

Form No. J(2)

IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION

Present:

The Hon'ble Justice Jay Sengupta

C.R.R. 189 of 2021

Sahanara Khatun

Vs.

Sk. Firoj Mahammad & Anr.

For the Petitioners : Mr. Md. Mahmud

Ms. Pinki Das

Mr. Imtiaz Alam

For the opposite party no.1 : Mr. Gazi Faruque Hossain

Ms. Priyanka Mondal

Heard on : 22.02.2021

Judgment on : 22.02.2021

Jay Sengupta, J.:

This is an application seeking appropriate orders for execution of warrant of arrest issued against the opposite party no.1 in respect of a proceeding under Section 125 of the Code.

Learned counsel appearing on behalf of the petitioner

submits as follows. In 2015, an order was passed directing payment of maintenance allowance to the petitioner/wife and her minor child by the opposite party/husband. The husband did not comply with this order. The petitioner was constrained to file an application for execution of arrears of maintenance allowance. Finally, a warrant of arrest was issued in the year 2016. However, the same has remained pending since then. It could not be executed despite the petitioner furnishing the present address of the opposite party no.1. At present, the petitioner is staying at Coimbatore, Tamil Nadu.

A Vakalatnama filed on behalf of the private opposite party is taken on record.

Learned counsel appearing on behalf of the husband/opposite party submits that the husband wants to take an appropriate steps before the learned trial Court on the next date fixed for compliance.

I have heard the submissions of the learned counsels appearing on behalf of the parties and have perused the revision petition.

It appears that the warrant of arrest has been pending since long. The wife and her minor child have been left to fend for themselves.

It further appears that the learned Executing Court

had fixed several dates for execution return. Yet, the warrant of arrest could not be executed.

If the opposite party/husband does not comply with the learned trial Court's order passed under Section 125 of the Code, the learned Executing Court shall take all endeavors to have the warrant of arrest executed against the husband/opposite party. In the event the petitioner is staying outside the territorial jurisdiction of the learned Magistrate, the learned Magistrate shall be at liberty to invoke the provisions of Section 78 of the Code of Criminal Procedure for effecting execution of warrant of arrest.

With these observations, the revisional application is disposed of.

Urgent photostat certified copies of this judgment may be delivered to the learned Advocates for the parties, if applied for, upon compliance of all formalities.

(Jay Sengupta, J.)