

Form No. J(2)

IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION

Present:

The Hon'ble Justice Jay Sengupta

C.R.R. 319 of 2021

Sahajamal Sk. @ Tagor Sk.
Vs.
State of West Bengal

For the petitioner : Mr. Imtiaz Ahmed
Mr. Diptendu Banerjee
Mrs. Ghazala Firdaus
Mrs. Sinthia Bala
Ms. Smita Saha
Ms. Supriya Majumder
Mr. Sk. Saidullah
Ms. Arunima Mukhopadhyay
Ms. Debopam Roy

Heard on: 08.02.2021

Judgment on: 08.02.2021

Jay Sengupta, J.:

This is an application challenging an order dated 26.11.2019 passed by the learned Additional Chief Judicial Magistrate, Katwa, Purba Bardhaman in connection with Misc. Ex. No. 37 of 2015 (CIS-278/16) thereby issuing warrant of arrest against the petitioner.

Leave is granted to amend the cause title and add the wife as opposite party.

Learned Counsel appearing on behalf of the petitioner submits as follows. The wife/added opposite party got married to another person in

2012. The husband/petitioner had been paying interim maintenance awarded to the wife under Section 125 of the Code of Criminal Procedure till 2012. The fact that the wife/opposite party had got married in 2012 was brought to the notice of the learned Additional Chief Judicial Magistrate, Katwa, Purba Bardhaman, by way of the application under Section 127 of the Code of Criminal Procedure in 2020. However, in the meantime, the present execution case filed in 2015 remained pending and a warrant of arrest also remained pending execution in respect of the same. The petitioner now has a good ground for not paying the maintenance allowance awarded to the former wife.

I have heard the submission of the learned Counsel of the petitioner and have perused the revision petition.

The point raised by the husband/petitioner that the wife/added opposite party had got married in 2012 has surprisingly been brought to the notice of the learned trial court only in 2020. However, the petitioner has every right to have the said application adjudicated by the learned trial court in accordance with law.

However, insofar as the present proceeding is concerned, the execution case for recovery of arrears of maintenance allowance has been pending since 2015. A warrant of arrest issued against the petitioner also remained pending since long.

In view of the same, I do not find any justifiable reason to interfere with the order issuing warrant of arrest passed by the learned executing court.

It shall be open to the petitioner to surrender before the learned executing court, make payment of half of the total sum due in this

execution case and pray for instalments for the rest of the dues and in such event, the learned Magistrate shall consider the application in accordance with law.

With these observations, the revisional application is disposed of.

Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Jay Sengupta, J.)