

09 14.09.2021
Dd

In the matter of : **Sourav Mandal**
Vs
Smt. Aditi Mandal (Majhi) & Anr.

The criminal revision under Section 482 of the Criminal Procedure Code, 1973 is listed today for hearing as contested application. On call, none appears for the petitioner and Opposite party No. 1. Mr. Rana Mukherjee, Learned Public Prosecutor and Mr. Paravas Bhattacharya, learned advocate are representing the State in this case. Appropriate authorities are requested to regularize their appointments.

Petitioner, Sourav Mandal, filed this criminal revision being aggrieved and dissatisfied with Order Nos. 5 and 7 dated 8.12.2009 and 2.01.2010 respectively passed by Learned Additional Sessions Judge, Barrackpore in Criminal Appeal No. 5 of 2009 arising out of order dated 16.02.2009 passed in Misc. Case no. 2 of 2008 under Section 340 of Criminal Procedure Code.

Perused the application for revision and the impugned order passed in Misc. Case no. 2 of 2008 under Section 340 of the Criminal Procedure Code.

Contention of the revisionist is that OP no. 1 filed an application under Section 125 of the Cr.P.C. which was pending before Learned Judicial Magistrate, 2nd Court, Brrackpore, in Misc. Case no. 70 of 2006. In the said application OP no. 1 claimed herself to be the legally married wife of the petitioner, the marriage being registered on 11.08. 1988 under Section 13 of the

Special Marriage Act and that a child was born during the subsistence of their wedlock. Learned Magistrate passed an order directing petitioner/husband to pay Rs. 6000/- per month as to OP no. 1 and Rs. 3000/- per month to the child as interim maintenance.

The present petitioner subsequently prayed for modification of the quantum of maintenance on grounds, inter alia, that he was without job. OP no. 1 also filed a separate case against the petitioner under Sections 489A/406/34 IPC, due to which he lost his employment. In CRR 115 of 2007 filed by the petitioner, this court reduced the quantum of interim maintenance to the tune of Rs. 5,000/- per month in favour of Opposite Party no. 1 and Rs. 2,500/- in favour of child. During the pendency of the Misc. Case no. 70 of 2006, learned Magistrate initiated a case under Section 340 of Cr. P.C. against the petitioner being Misc. Case no. 2 of 2008. The salary certificate produced by the petitioner was alleged to be a fraudulent document for which the Appointing Authority of the petitioner was called before the Court on 19.03. 2008. Misc. Case no. 70 of 2006 was thereafter disposed of directing the husband/petitioner to pay Rs. 10,000/- per month as maintenance to his wife and Rs. 4000/- to the child.

Being aggrieved with the proceedings in Misc. case No. 70 of 2006 as well as order dated 16.02.2009 passed in Misc. Case no. 2 of 2008 and order dated 8.12.2009, 23.12.2009 and 2.01.2010 passed in Criminal Appeal no. 5 of 2009 arising out of Misc. Case no. 2 of 2008, the instant criminal revision has been preferred.

Learned Additional Public Prosecutor submits that this is an old pending criminal revision and the petitioner has not appeared before the Court to assert his contention, as such, necessary order may be passed.

Having considered the impugned order as well as the application for revision, I find that Learned Additional Sessions Judge, Barrackpore in his orders had directed personal appearance of the appellant on the basis of the objection raised by OP no. 1, the wife, regarding the identity of the appellant and

sought for verification of the signature of the memo of appeal. The Learned Additional Sessions Judge accordingly had directed the appearance of the appellant in person before the court for verification of his identity. I find no illegality, irregularity or impropriety in the impugned order as the court may satisfy itself about the genuineness of the parties before it.

A court hearing appeal normally does not call upon the appellant or the respondent to appear before it as they are represented by their advocates. But the Court is not divested of the power of directing personal appearance of the parties, if circumstances so required. In view of such matter, I find no merit in the contention of the present appeal in his application. The revisional application is, therefore, dismissed on merit.

Let a copy of this order be sent to the Court of learned Additional Sessions Judge, Barrackpore to whom the Criminal Appeal no. 5 of 2009 was pending.

(Ananda Kumar Mukherjee, J)