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September
2, 2021
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C.R.R. No.657 of 2019
(Via Video Conference)

In Re: An application under Section 397/401 read with Section 482 of
the Code of Criminal Procedure, 1973.

Ashrukana Das
Versus
Raj Kumar Das

Mr. Sanjay Kumar Sarkar,
Mr. Avik Ghatak,
Mr. Rishabh Dutta Gupta.
...for the petitioner.

Mr. Animesh Das,
Mr. Dipankar Ghosh.
...for the opposite party.

The learned advocate for the petitioner claims for maintenance amount to be awarded for the period from 2003 to 2011. As according to him, no civil court order was existing during the relevant period of time regarding alimony and the petitioner did not receive any farthing during the said period (except for twelve months in the year 2006).

The learned Magistrate in his order dated 27.11.2018 has referred to the proceedings of the civil court and the amount which has been deposited over there. The learned Magistrate would find from the records how many execution cases were filed and whether there was any waiver of right according to the statute.

This Court is unable to accede to the prayer as the period referred to is almost two decades ago. The whole of the records and

the orders of the learned Magistrate and/or other execution cases are not before this Court. Accordingly, the learned Magistrate would re-assess the period for which the petitioner may be entitled for maintenance as submitted before this Court, if at all and arrive at a fresh finding.

With the aforesaid observations, CRR 657 of 2019 is disposed of.

Pending application, if any, is consequently disposed of.

Interim order, if any, is hereby vacated.

The learned Magistrate will act on server copy of this order.

(Tirthankar Ghosh, J.)