

CRR 791 of 2021

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

In the matter of : Sonali Dey (Das)

Mr. Narayan Chandra Ghosh,
Mr. Falguni Bandopadhyay

.... For the petitioner

Mr. Arun Shaw For the Opposite party

By an order dated March 2, 2020, learned Judicial Magistrate, 3rd Court at Alipore passed an order of interim maintenance of Rs. 10,000/- per month for the petitioner and Rs. 10,000/- per month for her minor child.

Against the said order a revisional application was filed before the learned Sessions Judge being Criminal Motion No. 08 of 2021 by the opposite party.

By an order dated January 20, 2021, the learned Sessions Judge stayed the operation of the order dated December 18, 2020 till March 26, 2021. The petitioner thereafter approached the learned Sessions Judge with a vacating application. The said vacating application was taken up for hearing on March 5, 2021, when the learned Judge declined to pass any order on the said application on the ground that the interim order was in force till March 26, 2021, and there was no immediate necessity to change, modify or vacate the interim order of stay.

The said order dated March 5, 2021, has been assailed by the petitioner by filing this revisional application before this Court.

The said order dated January 20, 2021, does not provide any reason as to why the order of maintenance passed by the learned Magistrate has been stayed by the learned Sessions Judge against a destitute wife and her minor daughter.

I am of the opinion that the learned Judge ought not to have passed a blanket stay order against the order dated March 2, 2020, passed by the learned Magistrate in the Court below without providing any reason.

The order of stay dated January 20, 2021, shall have no legal consequence.

The learned Sessions Judge will decide the revisional application on merit within a period of four months without being influenced by any observation made by this Court in this revisional application.

It has been submitted by the petitioner that an execution case has been levied for the realisation of the unpaid maintenance.

During pendency of this application the opposite party has paid a sum of Rs.1 lakh to the petitioner in terms of an order passed on June 18, 2021.

The executing Court while deciding the said execution case shall take into account of such payment of

Rs.1 lakh made by the opposite party to the petitioner.

With the aforesaid observations, the revisional application being CRR No. 791 of 2021 is disposed of.

All parties shall act upon the server copy of this order duly downloaded from the official website of this Court.

(*Kausik Chanda, J.*)