

15.07.2021
Item no.16
Ct. No.34
CHC

C.R.R. No.990 of 2012
IA NO: CRAN/1/2013 (Old No: CRAN/1672/2013)

(Via video Conference)

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

AND

In the matter of:-

Makbul Hossain

... petitioner

The present revisional application was preferred against the judgement and order dated 16.02.2012, passed by the learned Additional District and Sessions Judge, Fast Track Court No.3, Barasat, in connection with Criminal Revision No.182/11 arising out of Misc. Case No.149/2010.

I have perused the order so passed by the learned revisional court and I find that the learned Magistrate was pleased to allow the revisional application so filed by the petitioner. However, the grievance was regarding continuance of payment as awarded in the maintenance proceedings which was *ex parte*. As the learned Sessions Court being the revisional court has rightly interpreted the provisions of Section 126 of the Code of Criminal Procedure which is applicable in case the person against whom such order is passed approaches the court and satisfies the court.

Having regard to the spirit and tenor of the order, I am of the view that no interference is called for and the petitioner will

continue the payment so directed by this Court on 12.04.2012, in case, the said Misc.Case has not been decided finally by the learned Magistrate. However, if the learned Magistrate has subsequently come to a different finding the said order would continue and the earlier order passed by the High Court on 12.04.2012 will have no effect.

It is further stated that in case the husband did not have any opportunity and is pressing hearing of the application under Section 126 of the Code of Criminal Procedure, learned Magistrate will provide an opportunity and decide the matter on its merits if the same till date has not been considered.

With the aforesaid observations, C.R.R.990 of 2012 is disposed of.

Pending application, if any, is consequently disposed of.

All parties shall act in terms of copy of this order downloaded from the official website of this Court.

(Tirthankar Ghosh, J.)