

Sr.178
22-09-2021
Subha.
Court no. 34

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
APPELLATE SIDE
(Via Video Conference)**

CRR 1357 of 2017

In the matter of : Sri Debaprasad Halderpetitioner.

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

Mr. Abhra Mukherjee
Mr. Prabir Chatterjee
Mr. Dilip Kumar Chatterjee
Mr.Sauradeep Dutta

.....for the petitioner.

Mr. Ayan Bhattacharya
....for the H. C. Legal Services Authority.

Ms. Faria Hossain
Mrs. Baisali Basu

....for the State.

Mr. Mukherjee, learned advocate appears on behalf of the petitioner.

Ms. Faria Hossain, learned advocate appears on behalf of the State.

Mr. Bhattacharya, learned advocate was directed to appear on behalf of the High Court Legal Services Authority.

Mr. Prasanta Bishal, learned advocate appears on behalf of the opposite party no.1.

Mr. Mukherjee, learned advocate appearing for the petitioner draws the attention of this court to the relevant materials including the evidence which was adduced before the learned court below and tried to emphasize that the petitioner has suffered because of the act and/or ill action of the opposite party no.1 and the consequences have been suffered by him. As such, the wife who was responsible for such hazard for the health of the petitioner is not entitled to any maintenance.

Mr. Ayan Bhattacharya, learned advocate appearing on behalf of the High Court Legal Services Authority assisted this court by drawing the attention of this court to the relevant materials available in the case records and the issues of law involved regarding the illegality of the orders passed by the learned trial court as well as the learned revisional court(Sessions Court).

Ms. Hossain, learned advocate appearing for the State on the earlier occasion drew the attention of this court to the case diary and the relevant materials collected during the investigation in respect of Sonarpur P.S. Case no. 135 of 2003 dated 20th April, 2003.

On perusal of the materials collected by the investigating agency of the said case, I am of the opinion that it would be too early to hold that the injury at the eye of the

petitioner was because of any act or action of the opposite party no.1 until and unless the Magistrate court in seisin of the case and arrives at a definite finding.

In view of the aforesaid, I hold that the orders passed by the learned Magistrate as well as the learned District and Sessions Judge, Alipore in Criminal Motion No. 130 of 2016 would remain in force so far as the opposite party no.1 is concerned.

However, the petitioner will be at liberty to take out an appropriate application under Section 127 of the Code of Criminal Procedure if there are change of circumstances because of any material available in the trial of Sonarpur P. S. Case no., 135 of 2003 as an outcome of the final verdict of the said case.

With the aforesaid observations, the present revisional application being CRR 1357 of 2017 is disposed of.

All pending applications, if any, in connection with revisional application, are consequently disposed of.

Interim order, if any, is hereby vacated.

All parties are to act on the server copy of this order duly downloaded from the official website of this court.

(Tirthankar Ghosh, J.)