

Sr.19
29-07-2021
Subha.
Court no. 34

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

CRR 3059 of 2011

In Re : **Najima Begum.**

.....Petitioner

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

This revisional application has been preferred at the instance of the wife/petitioner in connection with a judgement and order dated 13.06.2011 passed by the learned Judicial Magistrate, 1st Class, 3rd Court, Hooghly Sadar in connection with M. Case No. 157 of 2010(T. R. Case No. 543 of 2010) under Section 125 of the Code of Criminal Procedure.

I have considered the reasons so assigned by the learned Magistrate for refusing to grant any maintenance to the present petitioner. The learned Magistrate expected that there would be strict proof of evidence so far as the allegations of physical and mental torture are concerned. I find that the learned Magistrate although recorded that the present petitioner along with another witness being P. W.2(father of the wife/petitioner) deposed before the court that she was tortured and the father tried to settle the dispute and in spite of

the same disbelieved the contentions or the evidence on record and arrived at his finding that there was no proper reason for the wife to stay separately from the husband and as such she is not entitled to the maintenance.

The said judgment and order is against the settled principles of law laid down under Section 125 of the Code of Criminal Procedure.

Accordingly, the judgement and order 13.06.2011 passed by the learned Judicial Magistrate, 1st Class, 3rd Court, Hooghly Sadar is hereby set aside.

The matter is remanded back to the learned Judicial Magistrate for fresh consideration regarding finding and the quantum of maintenance. Such consideration must be concluded within a period of three months from the date of the communication of this order.

Department is directed to communicate this order to the learned court below within a period of seven days.

Accordingly, the present revisional application being CRR 3059 of 2011 is allowed.

All pending applications, if any, are consequently disposed of.

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

(Tirthankar Ghosh, J.)