

9. 11.08.2021
Ct. 34
SA

CRR 3125 of 2019

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

And

In the matter of : Amit Kumar Chakraborty
..... petitioner

Mr. Apurba Kumar Datta
...for the petitioner

Mr. Kunal Ganguly
... for the opposite party

The subject matter of challenge is the Order dated 12th June, 2019 passed in Misc. Execution Case No. 8 of 2018.

The contention of the learned advocate for the petitioner is that the submission which on the earlier occasion was advanced that the order of the civil court is admitted under Section 125 of the Code of Criminal Procedure, is not permissible under law. Learned advocate also strenuously urged regarding the order passed in CO No. 4322 of 2018. Mr. Datta further submits that in the meantime, during the pendency of revisional application more than Rs.5,00,000/- have been paid by the petitioner before the learned Judicial Magistrate in respect of the present execution proceedings.

Learned advocate for the opposite party Mr. Ganguly supports the contention in the judgement and the impugned order dated 12.06.2019. The learned Magistrate in the order dated 12.06.2019 has categorically stated that the award in Misc. proceeding under Section 125 and the alimony granted under Section 24 of the Hindu Marriage Act are to be considered only

when the issue of adjustment is raised and consequently the learned Court was correct in holding that the right of the wife and the child under Section 125 to pay maintenance cannot be ignored and the court is to award maintenance. The learned court after appreciating the dues which was approved arrived at a quantum. The order reflects that the court was also aware regarding the order passed in CO 4322 of 2018.

On an overall assessment of the order which has been passed by the learned Magistrate and the reasons emphasized, I am of the view that the same are logical and in consonance with the provisions of law. As such no interference is called for.

Accordingly, the revisional application being CRR 3125 of 2019 is without any merit and is liable to be dismissed.

However, if in the meantime the petitioner has already cleared the dues which was quantified by the learned Magistrate and paid by the present petitioner being the husband, the petitioner will be at liberty to take out an appropriate application before the learned Magistrate for termination of the said proceeding.

Pending application, if any, is consequently disposed of.

Interim order, if any, is hereby vacated.

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

(Tirthankar Ghosh, J.)

