

Form No. J(2)

***IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION***

Present:

The Hon'ble Justice Jay Sengupta

C.R.R. 1403 of 2020

Sk. Selim

-vs-

The State of West Bengal & Anr.

For the Petitioner : Mr. Saryati Datta,
Mr. Basudeb Patra,
Mr. Iswar Chandra Maiti

For the opposite party no.2.: Mr. Surajit Basu

Heard on: 03.03.2021

Judgment on: 03.03.2021

Jay Sengupta, J.:

This is an application challenging a judgment and order dated 16.12.2019 passed by the learned Additional Sessions Judge, Fast Track 4th Court, Barasat, North 24 Parganas in Criminal Revision no. 65 of 2018, thereby dismissing the revisional application on the ground that the matter was barred by Section 397(2) of the Code.

Learned counsel appearing on behalf of the petitioner submits as follows. It is a fact that the petitioner/husband had prayed for adjournments on several occasions and was even asked to pay a fine for this in the proceeding initiated by the opposite party/wife under Section 125 of the Code. However, on one occasion his prayer for adjournment was refused. Evidence was closed and a date was fixed for argument. The petitioner prayed for recalling of the said order, but the same was refused. The petitioner challenged that order in revision. But, the learned Sessions Court dismissed it by holding that the impugned order was an interlocutory one. The petitioner wants a single day's opportunity to adduce evidence.

Learned counsel for the opposite party/wife submits as follows. The husband had been protracting the proceeding for sometime. In fact, he was made to pay fine for this on as many as four occasions. In the event an opportunity is given to the petitioner to adduce evidence, the examination may be done on a single day and a direction may be passed upon the learned trial court to conclude the proceeding at the earliest.

I have heard the submissions of the learned counsels appearing on behalf of the petitioner and the opposite party/wife and have perused the revision petition.

Learned revisional court erred in holding that the order refusing to recall an earlier order closing evidence and fixing a date for arguments was merely an interlocutory order for the purpose of Section 397(2) of the Code. Learned revisional court ought to have entertained the revision and decided it on merits.

It appears that the petitioner had taken adjournments on several occasions. This will not be permitted any more.

However, keeping in mind the petitioner's precious right to be heard in a trial, a single day's opportunity may be granted to him to adduce evidence.

In view of the above and the impugned orders passed by the learned revisional court and the corresponding orders passed by the learned trial court are set aside. The matter is remanded back to the learned trial court for disposal of the case.

The learned trial court is requested to fix a single day for the husband/petitioner to adduce evidence. Thereafter, the learned trial court shall proceed with the matter and

conclude the proceeding as expeditiously as possible without granting any unnecessary adjournment to any of the parties, preferably within a period of six months from the next date of hearing.

With these observations, the revisional application is disposed of.

Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Jay Sengupta, J.)