

D/L48
April 22,
2022
Bpg.

C.R.R. No.79 of 2020
With
CRAN 1 of 2020 (Old CRAN 336 of 2020)

In Re: An application under Article 227 of the Constitution of India and read with Sections 482 and Section 401 of the Code of Criminal Procedure, 1973;

Smt. Tapashi Roy (Das)
Versus
The State of West Bengal & Anr.

Mr. Fazlur Rahaman,
Ms. Krisna Yadav.
...for the petitioner.

Affidavit-of-service so filed by the petitioner be kept with the record.

In spite of service, none appears on behalf of the opposite parties.

I find that the subject matter of challenge relates to an application for maintenance being filed at the instance of husband/opposite party claiming maintenance from the wife for himself and for the minor daughter. At the relevant point of time it is reflected from the records that the daughter was about 15 years. As such, presently she has attained majority. The order was passed on 24th October, 2017. The same was an ex parte order.

Having regard to the peculiar circumstances of the case and the order being passed ex parte without affording any audience to the wife/present petitioner, I set aside the ex parte order dated 24.10.2017.

The petitioner would appear before the learned Judicial

Magistrate, 4th Court, Barrackpore, on or before 12th May, 2022. The petitioner would thereafter pray for setting aside of the ex parte order so passed assigning the reasons for non-appearance before the court in accordance with the relevant provisions of law. The learned Magistrate would issue notice to the parties and thereafter fix a date for hearing for deciding the issue/issues. The learned Magistrate is directed to come to a reasonable finding in view of the peculiar circumstances of the case.

Consequently, CRAN 1 of 2020 (Old CRAN 336 of 2020) along with CRR 79 of 2020 is allowed.

Pending application, if any, is consequently disposed of.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Tirthankar Ghosh, J.)