

25.03.2022
S.D.
05.

**C.R.R. 91 of 2015
(Via Video Conference)**

In the matter of: Sanjib Saha

.....Petitioner.

Petitioner filed this application under Section 227 of the Constitution of India assailing an order dated 28.11.2014 passed by learned Additional Sessions Judge, 5th Court, Alipore, District – South 24 Parganas in connection with Criminal Motion No. 203 of 2014 arising out of the order dated 17.4.2014 passed by learned Additional Chief Judicial Magistrate, Alipore in Maintenance Execution Case No. 58 of 2013.

The petitioner has not appeared before this Court on consecutive dates. There is no indication if notice has been issued on the basis of the direction given by this Court on 24.2.2015 and thereafter on 28.2.2022.

Perused the impugned order.

Wife/Opposite party filed a Maintenance Execution Case before learned Additional Chief Judicial Magistrate, Alipore for recovery of her arrear maintenance of Rs.18,000/- from the petitioner. It is contended in the application that the petitioner filed an objection in the Maintenance Execution Case stating that his wife suppressed material facts that she was receiving Rs.3,500/- per month as maintenance by order of Additional District Judge, 7th Court, Alipore in proceeding under Section 24 of the Hindu Marriage Act. Further contention of the petitioner was that she was not entitled to get double payment as per law. The

petitioner, therefore, prayed for withdrawing the distress warrant issued against him.

Learned Additional Sessions Judge considering the prayer observed that learned Additional District Judge had considered that the petitioner was paying maintenance under Section 125 of the Cr.P.C. and thereafter allowed an alimoni of Rs.3,500/- per month. It was further observed that no good ground was made out by the petitioner in his application and, therefore, the revision filed by him was dismissed.

Having considered the facts and circumstances of the case, it appears that there is no merit in the present application for setting aside or recalling the order issuing the distress warrant against him for non-payment of maintenance. The impugned order suffers from no illegality.

Under such circumstances, the revisional application is dismissed on its merit.

Let a copy of this order be sent to learned Additional District Judge, 5th Court, Alipore for information.

(Ananda Kumar Mukherjee, J.)