

CRR 545 of 2015

Tapas Kumar Ghosh @ Kenaram Ghosh- vs- Srabanti Ghosh & Anr.

An application under Sections 401 read with Section 482 of the Code of Criminal Procedure.

None appears on behalf of the petitioner.

The petitioner has preferred the present revisional application challenging the judgment and order dated 9.3.2004 passed by the Chief Judicial Magistrate, Hooghly in M.C Case No. 189 of 2002 under Section 125 of the Cr.P.C. and order dated 21.1.2015 passed by the learned Chief Judicial Magistrate, Hooghly in connection with M.C. Case No. 282 of 2009 under Section 127 of Cr.P.C.

The brief fact of the case is that the opposite party no. 1 filed an application under Section 125 of the Cr.P.C. claiming maintenance for herself and her minor son. On consideration of materials on record, the learned Chief Judicial Magistrate, Hooghly by judgement and order dated 9.3.2004 allowed maintenance to the tune of Rs. 1,000/- for opposite party no. 1 and Rs. 1,000/- for her minor son. The petitioner thereafter filed an application for alteration and/or modification of the aforesaid award under Section 127 of the Cr.P.c. which was registered in M.C.Case No. 282 of 2009. The aforesaid prayer of the petitioner for modification and/or alteration of maintenance amount was rejected.

Being aggrieved by and dissatisfied with the aforesaid orders, the petitioner has preferred the present revisional

application.

It appears that in the proceedings under Section 125 of the Cr.P.C. being M.C. Case No. 189 of 2002 as well as in the proceeding under Section 127 of the Criminal Procedure Code being MC Case No. 282 of 2009, the petitioner has challenged the claim of maintenance by opposite party no. 1 on the ground of adultery.

Upon going through the judgment passed in M.C Case No. 189 of 2002 under Section 125 of the Criminal Procedure Code, it is found that the learned court has categorically dealt with the evidences available and came to this finding that the petitioner in a bid to make character of assassination of his wife has adultery failed in that regard. In the proceeding under Section 127 of the Criminal Procedure Code, the learned court while dealing with the evidence adduced on behalf of the petitioner held that residing at any address does not justify the proof of the addressee leading adulterous life and on such score the Misc. case was rejected. Thus, in both the proceedings upon dealing with the evidences on record, the learned Trial Magistrate has come to this conclusion that the petitioner failed to establish the ground of adultery. There is nothing irregularity or perversity in the aforesaid orders of the trial court. Thus the impugned orders of the learned tial court under challenge does not call for interference.

Accordingly, the present revisional application stands dismissed.

All connected applications stand disposed of.

Interim order, if any, stands vacated.

Urgent photostat certified copy of this order, if applied for, be supplied expeditiously after complying with all necessary legal formalities.

(Bivas Pattanayak, J.)