

Form No. J(2)

IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION

Present:

The Hon'ble Justice Jay Sengupta

C.R.R. 1279 of 2022

Soumen Das

-vs-

The State of West Bengal & Anr.

For the Petitioner : Mr. P. Ghosh
Mr. Sourav Guha
Mr. Amit Karmakar

Heard on : 27.04.2022

Judgment on : 27.04.2022

Jay Sengupta, J.:

This is an application challenging an order dated 17.03.2022 passed by the learned Judicial Magistrate, 4th Court, Barrackpore, North 24 Parganas in Miscellaneous Case No. 57 of 2022 under Section 127 of the Code of Criminal Procedure.

Learned counsel for the petitioner submits as follows. On 08.11.2016 the opposite party/wife was granted an interim maintenance of Rs. 3,000/- per month. She filed a revisional application before the learned Sessions Judge pursuant to which the

sum was enhanced Rs. 6,000/- per month with a litigation cost. The sum of Rs. 8,000/- per month was also granted in a proceeding under Section 25 of the Hindu Marriage Act. Subsequently, by an order dated 15.11.2018 passed by this Court in CRR No. 126 of 2018, this Court was pleased to direct the parties to place their case before the learned trial court and in the meantime, the husband was directed to pay sum of Rs. 12,000/- per month as interim maintenance to the wife from the date of that order. Thereafter, it came to the knowledge of the petitioner that the wife/opposite party had been married, had shifted to Uttar Pradesh and she was having a child from the subsequent marriage. This was suppressed in the proceeding before the learned trial court. This prompted the petitioner to file an application under Section 127 of the Code on 02.03.2022. However, on 17.03.2022 the learned Magistrate rejected the application for stay of the order “at this stage”. The petitioner is aggrieved with the order because the learned Magistrate ought not to have rejected the stay application outright and at best, could have fixed another date for hearing of the same.

I have heard the submissions of the learned counsel for the petitioner and have perused the revision petition.

It is clear from the order dated 17.03.2022 that the petition for

stay of the order of interim maintenance was rejected “at this stage”. The application under Section 127 of the Code remains pending.

Therefore, the intention of the learned Magistrate was clear that he did not think it prudent to interfere with an order of interim maintenance granted to a lady unless she was given an opportunity of hearing.

Moreover, there is nothing to show from the impugned order that the wife was served with a notice regarding the application under Section 127 of the Code.

Therefore, I do not find any illegality in the impugned order.

Accordingly, the revisional application is dismissed.

However, the learned Magistrate is requested to conclude the proceeding under Section 127 of the Code as expeditiously as possible without granting any unnecessary adjournment to any of the parties.

With these observations, the revisional application is disposed of.

Urgent photostat certified copy of this order may be supplied to the parties expeditiously, if applied for.

(Jay Sengupta, J.)

