

14.11.2022

Sl.No. 80

Ct. 236

Amalranjan

IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
APPELLATE SIDE

CRR 1055 of 2011

Haidur Rahaman
Vs.
Bibi Nadera Khatun and anr.

In Re: An application under Section 482 of the Code of
Criminal Procedure, 1973.

In Re: Haidur Rahaman ... appellant

Mr. Sujay Sarkar
Mr. Musharraf Alajm Sk.

...for the petitioner

Mr. Soupal Chatterjee
Mr. Sucheta Baberjee

...for the opposite party no. 1

Mr. Narayan Prasad Agarwal
Mr. Pratick Bose

...for the State

Challenging the judgment and order of maintenance
passed by the learned Chief Judicial Magistrate, Malda, in
Case no. 340M/03/T.R.No. 217/2003 Haidur Rahaman
preferred this application. By the impugned order the
learned Chief Judicial Magistrate allowed the prayer for
maintenance (registered under Section 125 of the Criminal
Procedure Code) to the tune of Rs. 1,500/- per month in
favour of the opposite party no. 1 Bibi Nadera Khatun wife of
the petitioner.

The opposite party no. 1, Bibi Nadera Khatun filed an application under Section 125 of the Cr.P.C. before the learned Chief Judicial Magistrate, Malda stating, inter alia, that her marriage with Haidur Rahaman was contracted on 31st July, 2002.

Briefly stated the petitioner, Haidur Rahaman contracted his second marriage on 2nd January 2003 and on that very date she drove out his first wife the opposite party no. 1 Bibi Nadera Khatun. The lady was seeking maintenance from her husband.

The petitioner, husband Haidur Rahaman contested the said proceeding and he claimed to have given to Talaque to his first wife Bibi Nadera Khatun and contended that he had no obligation to maintain (his erstwhile) wife under the personal law by which the parties are being governed.

Learned trial court after considering the evidence, however, refused to act upon the averment of the husband, as factum of Talaque, according to the learned trial court was not proved.

Mr. Sujay Sarkar, learned advocate for the petitioner drawing our attention to the order passed on 18th May, 2009 in CRR 4440 of 2007 argued that the learned Chief Judicial Magistrate had failed to exercise the jurisdiction vested upon the court by granting maintenance under Section 125 of the Cr.P.C while the lis ought to have been disposed of in the

light of Muslim Women (Protection of Rights on Divorce) Act, 1986.

But the husband since was asserting the factum of Talaque had the obligation to prove the same and there is no doubt that he has failed to discharge such obligation. He could not substantiate that reasonable cause was there to pronounce Talaque. There is nothing to suggest that attempt was made for reconciliation between the parties with the intervention to the two arbiters from two families.

Therefore, in my view, the learned trial court was absolutely justified in granting the order of maintenance under Section 125 of the Cr.P.C. The impugned order does not call for any interference.

The revisional application being devoid on merit is dismissed but without costs.

Mr. Sujay Sarkar, learned advocate for the petitioner fairly submits that installments may be granted to the petitioner to clear the arrear maintenance amount to Rs 3.60 lakhs.

Liberty is given to the petitioner, Haidur Rahaman to pay the arrear maintenance by 12 equal installments to be paid within the 7th day of every month commencing from the month of December, 2022 to the opposite party, Bibi Nadera Khatun directly by sending demand draft or money order or by electronic mode of transfer.

Liberty is also given the petitioner to approach his wife for providing him with the bank account details maintained by Bibi Nadera Khatun.

A copy of this order be sent down to the learned trial court for information and necessary action.

The revisional application being CRR 1055 of 2011, thus, disposed of.

The interim order, if any, stands vacated.

All parties are to act on the server copies of this order duly downloaded from the official website of this court.

(Siddhartha Roy Chowdhury, J.)