

08-03-2022
Subha
Item-21
Ct -.34

IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction

C.R.R 1070 of 2019
with
CRAN 1 of 2021

In Re: An application under Section 401 read with Section 482 of the Code of Criminal Procedure, 1973.

In the matter of : ***Sri Shibnath Khan***

...Petitioner.

Mr. Tapas Ghosh
Mr. Tanmoy Chowdhury
.....for the Petitioner.

The petitioner is aggrieved by the judgement and order dated February 26, 2019 passed by the learned Judicial Magistrate, 2nd court, Uluberia, Howrah in Misc. Case No. 177 of 2012 (T. R. No. 177 of 2012) under Section 125 of the Code of Criminal Procedure.

None appears on behalf of the opposite parties.

Learned advocate for the petitioner submits that the learned Magistrate in spite of accepting the factual position, proceeded to award a sum of Rs.3000/- per month to the opposite party no. 1/wife and Rs.5000/- per month to the opposite party no.2/daughter.

Learned advocate for the petitioner submits that the daughter within some time would attain her majority and already

execution cases have been filed and the petitioner in spite of the same is facing wrath after paying the lumpsum amount in the matrimonial proceedings.

On perusal of the judgement and order passed by the learned Magistrate, I have found that the same was taken into consideration while arriving at her conclusion.

It has been the contention of the petitioner that there has not been any proper appreciation regarding the factual aspects of the case in respect of the evidence which has been adduced in the proceedings.

In view of the aforesaid, I direct the learned Magistrate to re-consider the points agitated in the revisional application after affording opportunity to both the parties.

Needless to state that the present petitioner would go on paying the present monthly maintenance aggregating to a sum of Rs.8,000/- per month. However, till the hearing is over, the learned Magistrate should not insist on paying all the arrears in the execution proceedings.

Fresh hearing after issuing notice should be concluded within a period of three months from the date of the communication of the order.

It is reiterated that if the Learned Magistrate is of the opinion that the petitioner is delaying the hearing for evading payment in the Execution proceeding, in that case the Learned Magistrate would be at liberty after 1st July, 2022 to exhaust

harsher process of law in the execution proceedings.

With the aforesaid observation, CRR 1070 of 2019 is disposed of.

All pending applications, if any, in connection with the revisional application, are consequently disposed of.

Interim order, if any, is, hereby vacated.

All concerned parties are to act in terms of a website copy of this order duly downloaded from the official website of this court.

(Tirthankar Ghosh, J.)

