

23.03.2022

Item No.48
Ct.No.34
dc.

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION**

**C.R.R. 1093 of 2019
with
CRAN 1 of 2019 (Old No. CRAN 1528 of 2019)**

**Smt. Srabani Sil
versus
Sri Narendra Nath Sil & Anr.**

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

Ms. Santi Das,
Mr. Amar Mitra ... For the Petitioner.

Mr. Imran Ali,
Ms. Debjani Sahu ... For the State.

Re: CRAN 1 of 2019 (Old No. CRAN 1528 of 2019)
(an application under Section 5 of the Limitation Act)

Learned advocate appearing for the petitioner prays for condonation of delay of 180 days in preferring this revisional application.

The reasons so assigned in the application for condonation of delay are found to be just and reasonable. Accordingly, delay is condoned. The application being CRAN 1 of 2019 (Old No. CRAN 1528 of 2019) is, thus, allowed.

Re: CRR 1093 of 2019

The learned advocate appearing for the petitioner is aggrieved by the order dated 12.10.2018 passed in M. Case No. 201/2008 by the learned Judicial Magistrate, 1st Court, Barasat only to the limited extent that the learned Magistrate ought to have awarded maintenance from the date of filing of

the application instead of giving effect to the order of maintenance from the date of passing of the judgement.

In view of the settled proposition of law until and unless special reasons are assigned by the learned Magistrate, ordinarily an award relating to maintenance should be from the date of filing of the application. In this case, I find that the learned Magistrate has not assigned any reason as to why the lady would suffer for the pendency of the application under Section 125 of the Code of Criminal Procedure till the date of delivery of the judgement.

In view of the settled proposition of law, I direct that in case, no interim maintenance award was passed by the learned Magistrate during the pendency of the main application under Section 125 of the Code of Criminal Procedure, in that case, the learned Magistrate would give effect to the order dated 12.10.2018 from the date of filing of the application in the year 2008.

It has been submitted that the husband/opposite party no.1 is evading the court of law and except interference by the High Court, no maintenance has been paid till date.

The petitioner is granted liberty to file execution case, if so advised and the learned Magistrate in such case, would exhaust harsher process of law including attachment of salary, if required, if there is willful disobedience of the order of the learned Magistrate.

With the aforesaid observations, the revisional application being CRR 1093 of 2019 is disposed of.

All pending connected applications, if any, are consequently disposed of.

All parties shall act on the server copy of this order duly downloaded from the official *website* of this Court.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Tirthankar Ghosh, J.)