

Form J(2)

**IN THE HIGH COURT AT CALCUTTA
Criminal Appellate Jurisdiction
Appellate Side**

**Present :
The Hon'ble Justice Bibek Chaudhuri**

CRR 1766 of 2022

**Smt. Joyita Bhowmick
-Vs.-
State of West Bengal & Anr.**

Item No.04.

Heard & Judgment on: 21.06.2022

Bibek Chaudhuri, J.

None appears on behalf of the petitioner.

The petitioner comes up with the instant revisional application praying for an order directing the learned 5th Judicial Magistrate, Barrackpore to pass necessary order in Misc. Execution Case No.90 of 2016 arising out of Maintenance Case No. 118 of 2016. It appears from the impugned order dated 16th March, 2022 that the learned Executing Court directed to file statement of accounts and to pay Rs.12,000/- on the next date i.e., on 19th April, 2022. On 19th April,

2022 the opposite party deposited a sum of Rs.8,000/- and a money receipt was produced before the Court. The opposite party was then directed to pay a sum of Rs.40,000/- to the petitioner by 13th May, 2022.

It is not in record as to whether on 13th May, 2022 the opposite party/husband paid the said sum or not. however, it appears from the copy of the order passed in CRR No.2407 of 2021 which was filed by the petitioner assailing inaction/delayed action on the part of the learned 5th Judicial Magistrate, Barrackpore in Misc. Execution Case No.90 of 2016 arising out of Maintenance Case No.118 of 2016 that a Co-ordinate Bench passed an order on 23rd February, 2022 holding, inter alia, that a sum of Rs.1,07,000/- fell due as on 19th February, 2022. Under such circumstances, the Co-ordinate Bench requested the learned Executing Court to dispose the application as expeditiously as possible without granting unnecessary adjournment to any of the parties and resorting coercive measure to secure attendance of the other side preferably within a period of two months of the next date of hearing. Two months have elapsed from the date of the order dated 23rd February, 2022. Misc. Execution Case No.90 of 2016 has not been disposed of. Thus, it is ascertained that the order of this Court passed in CRR 2407 of 2021 was not complied with by the trial Court.

Under such circumstances, though the instant criminal revision has not been moved by the petitioner, on perusal of the record I am of the opinion that the instant revision deserves intervention of this Court. The learned Magistrate acted with material irregularity without complying the order passed by this Court in CRR 2407 of 2021.

Under such circumstances, the learned Judicial Magistrate, 5th Court at Barrackpore is specifically directed to take step to realize the entire amount for which Execution Case No.90 of 2016 was filed by the petitioner within one month from the date of communication of this order. If the opposite party fails to make entire payment within one month from the date of communication of this order, the learned Magistrate is at liberty to take coercive step against the private opposite party/husband.

The instant revision is, thus, disposed of.

(Bibek Chaudhuri, J.)