

28.9.2022
S.D.
18.

C.R.R. 2172 of 2022

Smt. Sumi Dutta
Vs.
The State of West Bengal & Anr.

Mr. Rupayan Deb
Ms. Priya Nandy
Ms. Varsha Roy

...For the Petitioner.

Affidavit of service be kept with the record.

It appears from the affidavit of service that the registered envelop containing notice of the instant proceeding was returned with postal remark "no claim" by the opposite party/husband. On perusal of the service report and considering the provision contained in Section 27 of the General Clauses Act, the notice of the instant revision is presumed to have been served upon the opposite party.

Indisputably, G.R. Case No. 368 of 2022 is pending before the learned Additional Chief Judicial Magistrate, Bidhannagar alleging commission of offence under Section 406 of the IPC by the opposite party. It is also not in dispute that during investigation of the case, police seized some wearing apparels, furniture and other articles on 11.4.2022. The Investigating Officer also seized some gold ornaments vide seizure list dated 28.4.2022. The defacto complainant/petitioner made separate prayers before the learned Magistrate for releasing the seized articles under he custody.

The petitioner has filed a supplementary affidavit wherein she has annexed a copy of the petition filed by the opposite party no. 2/accused claiming certain ornaments, some currency notices, Life Insurance policy, bank pass book and cheque book, silver ornaments of the children of the parties and one wooden box cot with fittings as of his own.

Learned advocate for the petitioner frankly submits that the articles mentioned in the petition dated 30.4.2022 filed by the opposite party may be directed to be kept in custody of the opposite party and ownership of the said articles shall be determined at the time of final hearing of the case.

However, the petitioner may be permitted to take hold of the remaining articles over which the opposite party/accused has no claim.

Having heard the learned advocate for the petitioner, this Court is of the view that the submission made on behalf of the petitioner is absolutely fair and bona fide. The articles are lying in the custody of the Investigating Officer and it is presumed that the said articles are kept in P.S. Malkhana. There is every chance of natural decay and destruction of the articles. Therefore, the instant revision is disposed of directing the petitioner to file an application afresh before the learned Additional Chief Judicial Magistrate at Bidhannagar praying for return of the seized articles except the articles which have been claimed by the opposite party in his petition dated 30.4.2022.

Learned Additional Chief Judicial Magistrate, Bidhannagar is directed to dispose of such application within 15 days from filing of such

application and pass necessary order for return of the said articles in favour of the petitioner on her executing bond as fixed by the learned Additional Chief Judicial Magistrate, Bidhannagar.

The instant revision is thus disposed of.

The parties are at liberty to act on the server copy of this order.

(Bibek Chaudhuri, J.)