

Sr. 50
23-02-2022
Subha.
Court no. 34

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

CRR 2139 of 2018

In the matter of : **Smt. Chabi Chowdhury & Anr.**petitioners.

In Re : An application under Ss. 397/401 read with S.482 Cr.P.C.

Mr. Uday Sankar Chattopadhyay,
Mr. Santanu Maji
Ms. Snigdha Saha
Mr. Pronay Basak
Ms. Trisha Rakshit

....for the petitioners.

Mr. Imran Ali
Ms. Debjani Sahu

....for the State.

Mr. Ashis Kumar Chowdhury,
Ms. Deborupa Mukherjee

...for the opposite party nos. 1 to 3.

The petitioners are aggrieved by the order dated May 1, 2018 passed by the learned Metropolitan Magistrate, 20th court, Calcutta in connection with Misc. (Execution) Case No. 02 of 2018.

Learned advocate appearing for the petitioners draws the attention of this court to the original judgement and order dated 26th April, 2017, wherein the learned Metropolitan

Magistrate, 20th court, Calcutta was pleased to observe the following:-

“that the Misc. Case be and the same is allowed on contest against respondents. Respondents are prohibited from committing any act of domestic violence, torture, aiding or abetting the commission of acts of domestic violence towards petitioners. Respondents are also restrained from alienating or disposing or renouncing their rights in shared household and from entering any portion of the shared household in which aggrieved persons reside. Respondents are further directed to return to the possession of aggrieved persons the valuable property to which they are entitled within one month from date of this judgement and respondent no.1 is directed to pay compensation of Rs.50,000/- (rupees fifty thousand only) particularly to petitioner no.2 within two months from the date of this judgement.”

The grievance of the learned advocate appearing on behalf of the petitioner is that the learned Magistrate after ensuring the compensation amount of Rs.50,000/- being paid dropped the proceedings without considering the prayer of the petitioner relating to *“prohibiting and/or restraining from entering any portion of the shared household in which the*

aggrieved person resides and giving assistance to the petitioner from vacating the unlawful possession of respondent and render peaceful and vacant possession of the portion where petitioner no.1 resides and removing the unlawful possession of the Respondent/Opposite Party.”

Pursuant to the order dated 13th January, 2021 passed by a co-ordinate Bench of this court, a report has been received from the Officer-in-Charge, Amherst Street Police Station. The petitioner’s contention is that there has been violation of the order passed by the learned Magistrate in its order dated 26th April, 2017. The learned Magistrate in view of the grievance being expressed and the prayer advanced in the execution proceedings is directed to re-consider the prayer of the present petitioner.

Accordingly, the part of the impugned order dated 26th April, 2017 so far as it relates to dropped is hereby set aside.

The matter is remanded back to the learned Metropolitan Magistrate, 20th Court, Calcutta, wherein the learned court after issuing notice to both the parties and after affording hearing will decide the issue on the prayer referred to above which has been advanced in the execution proceedings and pass his order within a period of 70 days from the date of the communication of this order.

Accordingly, the present revisional application being CRR 2139 of 2018 is partly allowed.

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

Inter order, if any, is hereby vacated.

Report prepared by the Officer-in-Charge, Amherst Street P.S. in compliance of the order dated 13th January, 2021 passed by this court and submitted before this court through Mrs. Sahu, learned advocate for the State be kept with the record.

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

(Tirthankar Ghosh, J.)