

28-11-2022

Item 32, 33 34
Ct no.34
subha

IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction

CRR 1970 of 2021
+
CRAN 4 of 2022
+
CRAN 6 of 2022
Sri Naba Kumar Majumdar
-versus-
Meghna Majumdar

With

CRR 1220 of 2021
+
CRAN 1 of 2021
+
CRAN 2 of 2022
Meghna Majumdar
-versus-
The State of West Bengal & Anr.

With

CRR 1223 of 2021
+
CRAN 1 of 2021
+
CRAN 2 of 2022
Meghna Majumdar
-versus-
The State of West Bengal & Anr.

Mr. Krishnendu Bhattacharya
Mr. Priyankar Ganguly
Ms. Shalini Bairagi
.....for the petitioner in CRR 1970/2021
& O. P. in CRR 1220/2021 & CRR 1223/2021.

Mr. Debasish Banerjee
Mr. Subrata Saha
Mr. S. Naskar
Mr. A. Biswas
...for the petitioner in CRR 1220/2021 & CRR 1223/2021.
& O. P. in CRR 1970/2021.

Three revisional applications i.e., CRR 1970 of 2021, CRR 1220 of 2021 & CRR 1223 of 2021 are taken up together as they are connected with each other.

CRR 1970 of 2021 has been preferred by the father/respondent in an application under Section 125 of the Code of Criminal Procedure wherein the learned Magistrate was pleased to set aside the *ex parte* order of maintenance imposing cost of Rs.1000/-.

However, there was an execution case which was filed in respect of the verdict arrived at by the learned Magistrate in the final order relating to the proceedings under Section 125 of the Code of Criminal Procedure in ACM Case No. 447 of 2014.

CRR 1220 of 2014 has been filed by the daughter against the order of recalling distress warrant.

CRR 1223 of 2021 was filed at the instance of the daughter against the order of setting aside of the final verdict in ACM Case No. 447 of 2014 and calling for the respondent to adduce evidence by imposing cost of Rs.1000/-.

It has been submitted on behalf of both the parties that the learned trial court by proceeding *ex parte* arrived at a quantum of Rs.15,000/- to be awarded by the father/respondent to the daughter, who filed the application under Section 125 of the Code of Criminal Procedure before the learned Magistrate. In the said case, finally the learned Magistrate awarded a sum of Rs.15,000/- to be paid from the date of the order.

Consequently, an execution case was filed praying for recovery of the arrears. However, in the meantime, by an order dated 17th July,

2018, the learned Magistrate was pleased to allow the application filed under Section 126 of the Code of Criminal Procedure.

It has been contended on behalf of the learned advocate appearing for the daughter, namely Meghna Majumdar that the father appeared initially in the proceedings and thereafter evaded his appearance in the further continuance of the proceedings. As such, the order of setting aside of the final order is not justified.

I have considered the submissions advanced by both the parties and I find that an opportunity must be granted to the father/respondent to adduce his evidence before the learned trial court.

However, the daughter in the meantime cannot be without any sustenance amount. Accordingly, I direct further proceedings of Misc. Execution Case No. 31 of 2019 be stayed till the evidence in the main proceedings under ACM Case No. 447 of 2014 is complete pursuant to the order dated 17th July, 2018 passed by the learned Magistrate.

. As an interim measure, till the quantum and entitlement of maintenance is decided by the learned Magistrate, it is directed that the father/respondent would go on paying a sum of Rs.15,000/- per month which would commence for the time being from January,2022.

The arrears preferably would be paid by two installments.

Learned Magistrate is directed to fix schedule of examination or recall of the witnesses once in a fortnight so that the trial can be taken to its logical conclusion within a period of six months from the date of the communication of the order.

With the aforesaid observations, the present revisional

applications being *CRR 1970 of 2021, CRR 1220 of 2021 & CRR 1223 of 2021* are disposed of.

Pending applications, if any, are consequently disposed of.

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

[Tirthankar Ghosh, J]