

Form J(1)

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

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

CRR 3410 of 2022

**Lalan Singh
Vs.
Kunti Devi.**

For the petitioner : Mr. Krishna Das Poddar, Adv.

Heard on : 12.09.2022

Judgment On : 12.09.2022.

Bibek Chaudhuri, J.

It is alleged on behalf of the petitioner that the petitioner is an ailing old person aged about 79 years. The opposite party voluntarily left the association of the petitioner/husband and started residing with the eldest son of the parties. The eldest son of the parties got service in Railway Protection Force after voluntary resignation of the petitioner from his service.

As the opposite party/wife voluntarily left the petitioner, there was no question of the opposite party being refused or neglected by the petitioner.

However, the opposite party was favoured with an *ex parte* order in a proceeding under Section 125 of the Code of Criminal Procedure.

The petitioner filed an application under Section 127 of the Code of Criminal Procedure praying for modification of the order passed in the proceeding under Section 125 of the Code of Criminal Procedure. In the said proceeding, the opposite party is refusing to accept notice and on the contrary, regularly proceeding with the execution proceeding against the petitioner under Section 128 of the Code of Criminal Procedure.

Since the proceeding under Section 127 of the Code of Criminal Procedure filed by the petitioner and Section 128 of the Code of Criminal Procedure filed by the opposite party are pending in the 2nd Court of the learned Judicial Magistrate at Asansole, the instant revision is disposed of directing the learned Judicial Magistrate, 2nd Court at Asansole to cause service of notice of the proceeding under Section 127 of the Code of Criminal Procedure upon the opposite party on the next date of hearing of the execution case filed by the opposite party against the petitioner under Section 128 of the Code of Criminal Procedure.

The Trial Court is also directed to dispose of the said application under Section 127 of the Code of Criminal Procedure

within 3 months from the date of service of notice upon the opposite party.

It is also directed that the Execution Case under Section 128 of the Code of Criminal Procedure and the proceeding under Section 127 of the Code of Criminal Procedure shall run concurrently.

With the above order, the instant revision is **disposed of**.

(Bibek Chaudhuri, J.)

***Mithun De/
A.R. (Ct).
SI No.09..
D/L.***