

CRR 2925 of 2008
CRAN 1 of 2008

In the matter of : Joydeb Pal

Mr. Soumik Ganguli ... for the petitioner

This criminal revision is directed against the judgment and order dated 30.6.2008 passed by learned Chief Judicial Magistrate, Bankura in a proceeding under Section 125 of the Code of Criminal Procedure being Misc. Case No. 180 of 2005.

Briefly stated, Smt. Mridula Pal as mother and natural guardian of her daughter of Kumari Payel Paul filed an application under Section 125 of the Cr.P.C. before the learned Chief Judicial Magistrate, Bankura seeking maintenance.

Notice was served upon Joydeb Pal and he submitted written objection to the petition for maintenance filed by his wife for their minor daughter. The petition was transferred to the Court of fourth Judicial Magistrate, Bankura for disposal but subsequently withdrawn and brought to the file of the learned Chief Judicial Magistrate, Bankura on 17.9.2005 and Joydeb Pal was not in the know of such development and it was prevented him from taking part in the proceeding before the learned Chief Judicial Magistrate, Bankura, who was pleased to pass an order of maintenance ex parte granting a sum of Rs.700/- per month to the daughter of the petitioner. Joydeb Pal preferred an application under Sub-section 2 of Section 126 of the Code of Criminal Procedure Code and Misc. Case No. 180 of 2005 was registered. While deciding the said

Misc. Case, the learned Trial Court took note of the content of an order sheet dated 17.9.2005 indicating the knowledge of Joydeb Pal about the movement of case record.

It was submitted by the petitioner that the order sheet dated 17.9.2005 was manufactured to defeat his case. Learned Chief Judicial Magistrate further held that Joydeb Pal did not make any attempt to submit evidence in support of his illness on 29.10.2005 when the petition for maintenance of minor child was considered. He did not attend the Court on 24.10.2005 as well. The impugned order passed by the learned Trial Court while disposing of the petition under Section 126(2) of Cr.P.C. does not suffer from any infirmity. It appears that Joydeb Pal has been trying disparately to disown his obligation to maintain his daughter and he is making all possible efforts even by taking of vexatious proceeding to disown such responsibility.

The petition does not merit any consideration being absolutely vexatious and is dismissed, however, without any order as to costs.

The copy of the order be sent down to the learned Trial Court for information and necessary action.

The parties shall act upon the server copy duly downloaded from the official website of this Court.

Urgent Photostat certified copy of this order, if applied for, be supplied to the parties, upon completion of requisite formalities.

(Siddhartha Roy Chowdhury, J.)