

22.03.2022
S/L No.5
KS

C.R.R. 2982 of 2015
Mst. Asmira Bibi Bhusho
-Vs.-
The State of West Bengal & Anr.

Mr. Binay Kumar Panda
Mr. Subham Kanti Bhakat

.....For the State

This revisional application is listed today for hearing. Same is taken up for consideration on its merit.

Learned advocates for the State/opposite party no.1 are present.

None appears for the petitioner and opposite party no.2 for the second consecutive day.

The revisional application was filed by the petitioner assailing order dated 28.05.2015 passed by Learned Additional District & Sessions Judge, Basirhat, North 24 Parganas in Criminal Revision No.16 of 2013, whereby the order dated 18.06.2013 passed by Learned Additional Chief Judicial Magistrate, Basirhat in connection with M - Case No.457 of 2012 under Section 125 of the Code of Criminal Procedure, where the petitioner's prayer for interim maintenance was rejected.

Perused the application for revision and the impugned order passed by Learned Additional District & Sessions Judge, Basirhat and the order passed by Learned Additional Chief Judicial Magistrate, Basirhat.

Heard learned advocates for state who submitted that there is nothing to interfere with the impugned order.

In nutshell, the facts leading to this revisional application is that, the petitioner is the married wife of Md. Saifuddin Bhusho, the opposite party no.2 in this revisional application. The petitioner filed Misc. Case No.457 of 2012 before the Court of Learned Additional Chief Judicial Magistrate, Basirhat seeking interim maintenance of Rs.3,000/- for herself on the ground that she does not have the means to maintain herself whereas her husband has landed property, one residential house and he earns Rs.20,000/- per month from different seasonal businesses. In that case opposite party no.2 filed a written objection and challenged the marriage on the ground that the opposite party is 19 years of age and a student of Class – IX at Aminia Madrasha at Basirhat. On 10.08.2010, the opposite party no.2 was taken to a place for the purpose of attending a religious function and thereafter he was compelled to sign some blank papers on use of criminal force and subjecting him to fear of death. Learned Magistrate while disposing of the application for interim maintenance observed that it was a case where the marriage between

the parties could be ascertained only after taking evidence and the prayer for interim maintenance was rejected.

Being aggrieved by the order, the petitioner filed a criminal revision before the Court of Learned Additional District & Sessions Judge Basirhat who also opined the same and affirmed the impugned order passed by Learned Magistrate.

Now, the petitioner has approached this Court on the ground that the order passed by Learned Court below is illegal, arbitrary, baseless and is liable to be set aside.

Having considered the facts and circumstances of the case, it is palpably clear that when the marriage itself has been denied by the opposite party, it is not proper to pass any order of interim maintenance against the opposite party unless the actual dispute between the parties is set at rest after recording of evidence and assessing the truth.

In my considered view, there is no illegality, irrationality or impropriety in the impugned order passed by Learned Additional District & Sessions Judge, confirming the order passed by Learned Additional Chief Judicial Magistrate, Basirhat.

The revisional application is without merit and the same is dismissed on its merit.

Interim order, if any, stands vacated.

Let a copy of this order be sent to the Court of Learned
Additional District and Sessions Judge, Basirhat for information.

(Ananda Kumar Mukherjee, J.)