

06-05-2022
Subha
Item no.62
Ct no.34

IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction

CRR 2881 of 2013

In the matter of : Bhaswati Chatterjee.
.....petitioner.

In Re : An application under Section 482 of the Code of Criminal Procedure.

The revisional application has been preferred challenging the order dated 20th July, 2013 passed by the learned Judicial Magistrate, 3rd Court, Serampur, Hooghly in Misc. Case No. 196 of 2007.

The order dated 20th July, 2013 reflects that an application for ad interim maintenance was the subject matter of consideration and according to the learned Magistrate that was a second application for ad interim maintenance and the earlier application made by the petitioner was rejected.

I have considered the reasons assigned by the learned Magistrate which includes amongst others the fact that the learned Magistrate was of the view that no inherent power is vested with the learned Magistrate and a second application for ad interim maintenance cannot be entertained by the court.

The provisions of maintenance were brought within the ambit of the Code of Criminal Procedure having regard to the social compulsions. A court of law has to consider an application with several changes of circumstances and in respect of such law when day to day survival of an individual is an issue. There may be continuous change of circumstances

in a proceedings under Section 125 of the Code of Criminal Procedure, more so, in a case where a proceeding has started in the year 2007 and was still continuing till 2013. The learned Magistrate should also take into account the judgement of the Hon'ble Supreme Court in the case of *Minu Kumari & Anr. -vs- State of Bihar & Ors.* reported in (2006) 4 SCC 359 regarding both civil or criminal courts having inherent powers vested in them. I am of the opinion that the reasons so assigned by the learned Magistrate are not adhering to the provisions of law. However, the order so passed is more than 7 ½ years ago and there may be change of circumstances.

Having regard to the contentions advanced in this revisional application, I am of the opinion that if the application under Section 125 of the Code of Criminal Procedure is still pending and the issue of ad interim maintenance is to be decided, the learned court would forthwith grant relief to the petitioner.

With the aforesaid observations, the present revisional application being CRR 2881 of 2013 is disposed of.

All pending applications, if any, in connection with the revisional application, 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]

