

Form J(1)

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

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

C.R.R. 4212 of 2022

***Priyabrata Mishra
Vs.
The State of West Bengal & Anr.***

**For the petitioner : Mr. Krishnendu Bera, Adv.
Ms. Debolina Chakraborty, Adv.**

Heard on : 08.12.2022

Judgment On : 08.12.2022.

Bibek Chaudhuri, J.

The petitioner has challenged an order dated 14th September, 2022 passed by the learned Judicial Magistrate, 3rd Court at Contai in Misc. Execution Case No.10 of 2021 arising out of Maintenance Case No.87 of 2017.

By passing the impugned order, the learned Trial Judge has issued warrant of arrest against the petitioner/husband for non-payment of maintenance allowance.

It is submitted by the learned Advocate for the petitioner that previously the petitioner filed an application being CRR No.2076 of 2021 before this Court and a Co-ordinate Bench of this Court passed

an order directing the petitioner to pay Rs.1,50,000/- towards maintenance. It was also directed that the petitioner shall go on paying current maintenance allowance during the trial of the case.

It is further submitted by the learned Advocate for the petitioner that the opposite party/wife filed Misc. Execution Case No.10 of 2021 praying for arrear maintenance to the tune of Rs.55,000/- for the period between 6th February, 2020 to 06th January, 2021 at the rate of Rs.5,000/-per month.

It is submitted by the learned Advocate for the petitioner that in compliance of the order passed by a Coordinate Bench of this Court in CRR 2076 of 2021, he has already deposited 1,50,000/-. Furthermore, he has been going by depositing a sum of Rs.5,000/- per month towards current maintenance and no amount is due. However, the opposite party has filed a frivolous application for execution giving rise to registration of Misc. Execution No.10 of 2021 in which warrant of arrest was issued against the petitioner.

Having heard the learned Advocate for the petitioner, the instant revision is disposed of directing the learned Magistrate to keep the warrant of arrest issued against the petitioner in abeyance for a period of four weeks. In the meantime, the petitioner shall appear before the Executing Court with clear calculation to show that he has

already deposited arrear maintenance and current maintenance from 3rd November, 2018 till date.

The learned Magistrate shall consider such calculation submitted by the petitioner and if the same is found correct, he will recall the warrant of arrest and dispose of the execution case directing the petitioner to pay current maintenance allowance. If, on the other hand, some amount of maintenance remains due, the learned Magistrate is at liberty to pass necessary order directing the petitioner to pay the said amount in accordance with law.

Parties are act on the server copy of this order downloaded from the official website of this Court.

(Bibek Chaudhuri, J.)

***Mithun De/
A.R. (Ct).
SI No.12.***