

1.2.2023
167
Ct. no. 652
sb

**C.O. 3687 of 2022
With
CAN 1 of 2022**

**Smt. Rupasree Paul
Vs.
Arnab Dutta**

Ms. Lokenath Chatterjee
Mr. Sukanta Ghosh ...for the Petitioner

Mr. Koustav Bagchi
Mr. Debayan Ghosh
Ms. Priti Kar ...for the opposite party

Re: CAN 1 of 2022

The present application has been preferred against an order passed in a proceeding under Section 125 of the Code of Criminal Procedure. The said proceeding was dismissed for default on 15.12.2022. The petitioners want to restore the revisional application after recalling the order dated 15.12.2022. The grounds shown in the application are sufficient.

Therefore, C.O. 3687 of 2022 is restored in its original file and number.

Accordingly, CAN 1 of 2022 is disposed of.

Re :C.O. 3687 of 2022

Learned counsel for the petitioners submits that this revisional application has been preferred against the proceeding being Maintenance case no. 803 of 2021

passed by the learned 4th Judicial Magistrate, Barrackpore. He further submits that due to inadvertence, it has been filed before this court under Section 24 of the Code of Civil Procedure. Accordingly, he seeks for withdrawal of the same in order to file it before the appropriate forum under the relevant provision of law.

Learned counsel for the opposite party raised objection against his prayer contending that such liberty of withdrawal should not be given to the opposite party.

Considering the submissions made by both the parties, I am of the view that the client must not be victimised for choosing wrong forum at the instruction of lawyer and as such I do not find any merit in the opposition raised by the opposite party.

Let C.O. 3687 of 2022 be dismissed as withdrawn.

However this order of dismissal will not preclude the petitioner to make similar prayer before appropriate forum subject to limitations laid down under the law.

Liberty is also given to the petitioner to take back the certified copy of the order impugned, on filing an authenticated copy in the record.

(Ajoy Kumar Mukherjee, J.)