

Court No.

33

Item 12

p.a/ I.B

30.08.2022

C.R.R 3181 of 2013

**In Re:- An application under Section 482 read
with Section 401 of the Code of Criminal Procedure, 1973**

In the matter of:-

Md. Nurual Haque @ Md. Nurual Islam

...petitioner

Vs

Halema Bibi

None appears on behalf of the petitioner.

The petitioner has preferred the present revisional application challenging order dated 27.08.2013, passed in Execution Case no. 100 M of 2012 (arising out of case no. 42 M of 2010).

The factual matrix of the case is that the opposite party no.1 filed an application under Section 125 of CrPC praying for maintenance being 42 M of 2010. By order dated 28.07.2011 the aforesaid case was dismissed by Learned Chief Judicial Magistrate, Malda. challenging the said order the opposite party filed a revision being no.107 of 2011 which was allowed by Learned Additional Sessions Judge, Fast Track, 6th Court, Malda and the matter was remanded to the Learned Chief Judicial Magistrate , Malda , for retrial and reassessment of the evidence. Thereafter by order dated 16th May, 2012, the prayer of the opposite party for maintenance was allowed to the tune of Rs.5000/- per month. The petitioner herein filed an application under Section 1127 CrPC praying for modification

of the award on the ground of remarriage of opposite party no.1 being case no.177 M of 2013. The opposite party no. 1 took out an application for execution of the award for maintenance being No.100 M of 2012. In the said execution proceeding the petitioner prayed for stay of operation until disposal of the application under Section 127 of the CrPC. The prayer of the petitioner was rejected.

Being aggrieved by and dissatisfied with the said order the petitioner has preferred the present revisional application.

It is found that the opposite party no.1 claimed arrear of maintenance from 15.05.2012 to 16.08.2012. There are also no stay of the execution proceedings by any higher court passed in revision. Thus the impugned order is not infirm and does not call for interference.

Accordingly the present revisional application is dismissed.

All connected applications stands disposed of.

Interim orders, if any, stand vacated.

Let a copy of this order be sent to the learned trial court for information.

Urgent Photostat Certified copy, if applied for, be supplied to the appellants expeditiously after complying with all necessary legal formalities.

(Bivas Pattanayak, J.)

