

D/L98  
March 31,  
2022  
Bpg.

C.R.R. No.1801 of 2020

In Re: An application under Section 482 read with Section 401 of the  
Code of Criminal Procedure;

Golam Rasul Gazi  
Versus  
The State of West Bengal & Anr.

Mr. Raja Biswas,  
Mr. Abhijit Sarkar.  
...for the petitioner.

The petitioner is aggrieved by the order issuing warrant  
of arrest in respect of an execution case.

I find from the records that the execution case was  
preferred for dues of Rs.17,500/-.

The main grievance of the petitioner is that the judgment  
in the principal case was delivered ex parte and the petitioner has  
been continuously paying a sum of Rs.500/- per month in respect  
of the order passed in Section 125 of the Code of Criminal  
Procedure. Learned advocate continues his argument in respect of  
the earnings of the petitioner, however, such facts were not before  
the learned trial court as the petitioner did not participate in the  
proceedings.

Having regard to the submissions which have been made  
by the learned advocate for the petitioner and as none appears on  
behalf of the private opposite party no.2, I direct that in case the  
petitioner appears before the learned Judicial Magistrate, 2<sup>nd</sup> Court,  
Barasat, North 24 Parganas by 12<sup>th</sup> April, 2022 and deposits a sum

of Rs.5,000/-, the warrant of arrest issued should be stayed till 14<sup>th</sup> May, 2022. The petitioner would pay a further sum of Rs.5,000/- by 14<sup>th</sup> May, 2022 and in case the aforesaid amount of Rs.10,000/- is paid by 14<sup>th</sup> May, 2022, the learned court would take into account the amount which has already been paid by the petitioner in the maintenance proceedings under Section 125 of the Code of Criminal Procedure, adjust the same from the dues of the execution case and direct further payment within such time as the learned Magistrate thinks fit and proper.

It has been submitted that the proceedings under the Protection of Women from Domestic Violence Act, 2005 has been decided ex parte. After payment of the aforesaid sum, the learned court would allow the petitioner to adduce his evidence, after a proper application is preferred and the learned court is of the opinion for the ends of justice, the petitioner should be allowed to place his case.

With the aforesaid observations, CRR 1801 of 2020 is disposed of.

Pending application, if any, is consequently disposed of.

Interim order, if any, is hereby vacated.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

**(Tirthankar Ghosh, J.)**