

27-06-2023
Subha
Item no. 25
Ct no.34

IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction

CRR 270 of 2023
With
CRAN 1 of 2023

Subhajit Mondal
-versus-
Sushmita Mondal

Mr. Shibaji Kumar Das
Ms. Rupsa Sreemani
....for the petitioner.

Learned advocate for the petitioner submits that the cause title in the application under Section 125 Cr.P.C even do not state title of the husband properly. However, the learned advocate on a specific question from this court submits that the marriage is not disputed. Learned advocate thereafter submits that the interim maintenance was passed ex parte without the husband getting any opportunity of rebutting the contentions either by way of an affidavit or by way of a written objection.

Presently, the execution case is pending and warrant of arrest has been issued against the husband namely, Subhajit Mondal.

Having regard to the submissions advanced on behalf of the petitioner, I direct that the petitioner would be at liberty to file an application in the nature of Section 127 of the Code of Criminal Procedure along with the affidavit of assets and liabilities which would be considered by the learned Magistrate prior to proceeding to the next stage of the case. The learned Magistrate after hearing

both the sides in respect of the said application would apply his discretion regarding reconsideration of the quantum of interim maintenance, which was earlier granted.

The petitioner, in the meantime, will go on paying the interim maintenance which has already been granted by the court which will be subject to the adjustment after a finding is arrived at in respect of the application (in the nature of Section 127 Cr.P.C) filed at the instance of the present petitioner/husband.

The execution of the warrant of arrest be stayed till disposal of such an application which would be filed by the petitioner within a period of 10 days from date, learned Magistrate within a period of sixty days would dispose of such application. It is reiterated that petitioner husband would continue the amount which has been already decided and will not in any way mis-interpret the order or adopt dilatory tactics under Section 127 of the Code of Criminal Procedure.

Learned Magistrate as directed above would come to its independent finding while disposing of the application.

With the aforesaid observations, the present revisional application being CRR 270 of 2023 along with CRAN 1 of 2023 is disposed of.

Pending applications, if any, 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]

