

02.02.2023
Item No. 06
BR

CRR 882 of 2011

In the matter of: Sanjoy Kapoor

Mr. B.K. Roy,
Ms. Sima Biswas for the petitioner

None is found present for the petitioner. Challenge in this revisional application is to the judgment dated 19th January, 2011 passed by learned Additional Sessions Judge, 9th Fast Track Court, Alipore,, South 24-Parganas in Criminal Motion No. 30 of 2010 thereby affirming the order passed by learned Chief Judicial Magistrate at Alipore in M. Execution case No., 20 of 2009.

Briefly stated the petitioner happens to be the husband of the opposite party no. 2 who took out an application under Section 125 of the Cr PC seeking maintenance for herself and for her minor child. The petitioner since failed to pay the maintenance regularly, proceeding was initiated under the law for recovery of arrears of maintenance which was registered as money execution Case No. 20 of 2009 by learned Chief Judicial Magistrate, 24 Parganas (South). The petitioner took the plea that being declared insolvent by the competent authority, he cannot pay maintenance to his wife and child which plea was neither accepted by the learned Chief Judicial Magistrate, nor

by learned 9th Court of Additional Sessions Judge, Fast Track Court, Alipore, 24-Parganas (South).

As husband, the petitioner has incurred an obligation to maintain his wife and minor child. It is not the plea of the petitioner that he is not an able bodied man. Therefore, he cannot escape the obligation to maintain his wife and child under the plea that he has been declared insolvent. This order impugned, passed by learned 9th Court of Additional District and Sessions Judge, Alipore does not warrant any interference. The criminal revision is, thus, dismissed, however, without costs. The order of stay if any, stands vacated.

Copy of this order be sent down to the learned trial Court for information and necessary action.

Urgent certified copy, if applied therefor, be supplied upon compliance of usual formalities.

(Siddhartha Roy Chowdhury, J.)