

28.04.2023

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Ct. No. 29
CHC
Rejected

C.R.M.(A) 1761 of 2023

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with G.R. Case No.134 of 2023 arising out of **Kaliachak** Police Station Case No. **31** of **2023** dated **07.01.2023** under Sections **498A/494/308** of the Indian Penal Code read with Section **4** of Muslim Women (Protection of Rights on Marriage) Act, 2019.

And

In the matter of : Sadekul Islam @ Md. Sadekul Islam
..... petitioner

Mr. Ramdulal Manna,
Ms. Manju Manna (Dey),
Mr. Sayan Mukherjee,
Ms. Payel Khanra
....for the petitioner

Mr. Debabrata Chatterjee, Ld. A.P.P.
Mr. Santanu Chatterjee
....for the State

Mr. Sagar Saha
....for the de facto complainant

Petition is taken up subsequent to the order dated April 26, 2023.

State and the de facto complainant are represented.

There subsists order granting maintenance under Section 125 of the Criminal Procedure Code.

De facto complainant contends that such order is not being complied with for last one year. The present police complaint is second in point of time. Subsequent to the

lodgement of the second police complaint, the de facto complainant are receiving threat over telephone from the petitioner for withdrawal of the present police complaint.

Learned advocate appearing for the petitioner submits that there is an order of stay of the proceeding passed by the learned Magistrate. He refers to the order dated December 31, 2022.

Learned advocate appearing for the de facto complainant relies upon an order dated February 16, 2022 passed in CRR 413 of 2022.

The order of the High Court dated February 16, 2022 records as follows:-

“It is clarified that no interim order of stay has been granted in this case.”

The Court is informed that such revisional application is still pending.

Thereafter, the learned Magistrate passed the order dated December 31, 2022 taking note of the order dated December 22, 2022 of the High Court. Learned Magistrate was pleased to observe that in light of the above order of the High Court, further proceeding cannot be continued without proper order from the High Court.

The order dated December 31, 2022 cannot be construed to mean that there was a stay of interim maintenance granted by the learned Magistrate, by any stretch of imagination. High

Court did not grant stay. On the contrary it clarified in the revisional application that no interim order of stay was being granted.

Petitioner is deliberately avoiding to comply with the order of Court.

There are materials in the case diary suggesting requirement of immediate custodial interrogation of the petitioner.

In such circumstances, CRM (A) 1761 of 2023 is rejected.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)