

03-01-2023  
Subha  
Item no.03  
Ct no.34

*IN THE HIGH COURT AT CALCUTTA*  
*Criminal Revisional Jurisdiction*

**CRR 1968 of 2021**

***Runa Laila @ Lina***  
**-versus-**  
***Md. ali Murtuja & Anr.***

***Re :*** An application under Ss. 401 and 482 of the Code of Criminal Procedure.

Mr. Washef Ali Mondal  
...for the petitioner.

Mr. Manas Kuamar Das  
....for the opposite party.

The petitioner is aggrieved by the judgement and order dated 20.02.2021 passed by the learned Additional District and Sessions Judge, 3<sup>rd</sup> Court, Berhampore, Murshidabad in Criminal Revision Case No. 57 of 2000.

The background of the case relate to a proceeding under Section 3 of Muslim Women(Protection of Rights on Divorce) Act, 1986, wherein by a judgement and order dated 27.02.2020, the learned Judicial Magistrate, 1<sup>st</sup> Court, Berhampore, Murshidabad was pleased to refuse the prayer advanced by the petitioner on the ground that earlier similar proceedings were initiated and during the pendency of the said proceedings, the present litigation was initiated at the instance of the petitioner.

The learned Sessions Court considered the said perspective and allowed the revisional application. However, the relief which was

granted to the present petitioner was restricted to the Mahr payable by the opposite party/husband. No further relief was granted. As such, the petitioner being aggrieved approached this court. Attention of this court was drawn to Exhibit – 1 which happens to be the 'Kabilnama'. According to the learned advocate for the petitioner the prayers which have been advanced before the learned court in respect of the return of the jewellery, other accessories and gifts which were presented during the marriage are already incorporated in the 'Kabilnama' and the learned courts below did not appreciate the same.

Mr. Manas Kumar Das, learned advocate appearing for the opposite party resisted such submission and it is his contention that the demand relating to the gifts including the jewellery are not acceptable.

Be that as it may, prima facie it appears that when the document was marked as exhibit –1, there was no objection on behalf of the opposite party/husband.

However, having regard to the fact that the contents and the intrinsic value of the exhibit – 1, are yet to be decided in the background of the prayers so advanced and the same was not adjudicated upon by the learned Magistrate who restricted his judgement on the ground of previous litigation, I am of the opinion that the petitioner and the opposite party should be afforded opportunity to advance their arguments on the foundation of the claim raised by the present petitioner in the background of Exhibit-1 i.e., 'Kabilnama'. However, it is made clear that the prayer for Mahr which was allowed by the learned Sessions Judge should not be revisited by

the learned Magistrate so far as the said prayer is concerned, the same should be deemed to be allowed.

Accordingly, the revisional application being **CRR 1968 of 2021** is **disposed of**.

Department is directed to communicate this order to the learned Judicial Magistrate, 1<sup>st</sup> Court, Baharampore, Murshidabad. The learned Judicial Magistrate, 1<sup>st</sup> Court, Baharampore, Murshidabad is directed that a date be fixed on the 1<sup>st</sup> week of February, 2023 by issuing notice for appearance of both the parties. The arguments be advanced, according to the schedule fixed by the learned Magistrate. The learned Magistrate will freshly pronounce his judgement after revisiting the issue which has been referred to above and deliver his judgement by 10<sup>th</sup> April, 2023.

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]**

