

14-08-2023
Item no.15
Subrata
Bhattacharyya

IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction

CRR No.2915 of 2023
Md. Safikul Islam
-vs-
The State of West Bengal & Anr.

Mr. Atarul Hoque Molla
Ms. Riya Das

...for the petitioner

The petitioner in this revisional application being the alleged husband of the second opposite party has challenged an order dated July 6, 2023 passed by the learned Judicial Magistrate, 3rd Court, Katwa, Purba Bardhaman in Misc. Case No.314/2022 (CIS 339/2022).

The main thrust of contention of the present petitioner is that he never married the second opposite party and is never the owner of the two firms – one Deyan Bidi and another T.H Construction.

Learned advocate representing the petitioner has emphasised on the factum of the petitioner being falsely implicated in the instant case.

I have considered the trial court's order dated July 6, 2023 and the reasoning assigned by the learned Judicial Magistrate. The subject matter so decided relates to interim maintenance. The evidence of the case is yet to be adduced before the learned trial court. The interim maintenance has been granted on prima facie materials produced.

The present petitioner would be at liberty to produce the materials in respect of his contention of being married to a different lady and was never being married to the present applicant (the second opposite party in this application) before the learned trial court.

So far as the quantum of award is concerned, the same principle would apply. There is nothing on record to deny that the present petitioner was never associated with the aforesaid two firms named in the impugned order dated July 6, 2023.

Having regard to the purpose of the provisions for which section 125 CrPC was incorporated, I am of the opinion, at this primary stage, there is no scope of interference until and unless evidence is adduced before the learned trial court. The petitioner as directed above would produce his evidence either by cross-examination or by way of defence witness.

The learned trial court would be at liberty to assess the evidence adduced by the present petitioner; and if required, to arrive at his findings in respect of the issue relating to marriage as well as the quantum afresh at the time of final hearing of the case.

It is further clarified that this court has not entered into the merits regarding the issues relating to marriage, and that the learned trial court would independently consider the same without being swayed by any observations made by this court.

With the aforesaid observations, CRR No.2915 of 2023 stands disposed of.

Pending application, if any, is also disposed of.

Parties are to act on the server copy of this order duly downloaded from the official website of this court.

Certified copy of this order, if applied for, shall be made available to the parties.

[Tirthankar Ghosh, J]

