

05-09-2023
Chanchal
Item no. 81
Ct no.34

IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction

CRR 3218 of 2022

Gopal Prasad Saha
-versus-
State of West Bengal & Anr.

Mr. Amit Roy
....for the petitioner.

Mr. Habibur Rahaman
...for the opposite party Nos. 1 & 2.

The revisional application was preferred challenging the order dated 07.07.2022 passed by the learned Additional District & Sessions Judge, 2nd Court, Islampur, Uttar Dinajpur in connection with the Criminal Revision No. 02 of 2022 which arose out of Maintenance Case No. 04 of 2017.

The grievance of the petitioner is that the opposite party/wife has already married, as such she is not entitled to any maintenance.

The learned advocate appearing for the petitioner submits that he is paying maintenance of Rs.1,500/- per month to the wife and Rs. 1,300/- per month maintenance to the daughter.

I have perused the order passed by the learned Judicial Magistrate in M.R. 4 of 2017 as well as the judgment passed by the learned Additional District & Sessions Judge, 2nd Court, Islampur, Uttar Dinajpur in Criminal Revision No. 02 of 2022, which are enclosure available with the records. None of the Courts have referred to any material being produced before the trial court or the

revisional court that a document has been produced to substantiate regarding second marriage of the opposite party/wife.

That being so, I am not inclined to accept the version. Accordingly, the order impugned being 07.07.2022 passed by the learned Additional District & Sessions Judge, 2nd Court, Islampur, Uttar Dinajpur is not interfered with. However, if the petitioner takes out an application under Section 127 of the Code of Criminal Procedure producing materials in support of his contention before the learned trial court, the trial court would consider the same in accordance with law relating to the change of circumstances.

As there is no interference, the quantum decided by the learned revisional court should be paid to the wife and minor daughter until the Magistrate arrives at a fresh finding.

With the aforesaid observations, the present revisional application being CRR 3218 of 2022 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]

