

CRR 3244 of 2011

In the matter of : Sk. Nur Mahmud

....Petitioner

Perused the office report. Despite service, none is appearing for either of the parties. Instead of adjourning the matter, I am inclined to dispose it of on merit based on materials available with the record.

This criminal revision under Section 482 of the Code of Criminal Procedure challenges the order dated 25th August, 2011 passed by the learned Additional District Judge, Fast track, 2nd court, Haldia, Purba Midnapore in criminal revision no. 58 of 2011.

By the impugned order, learned Additional Sessions Judge, was pleased to set aside the order passed by the learned Judicial Magistrate and directed the petitioner to pay a sum of Rs. 2,000/- towards the maintenance of his wife and Rs. 3,000/- towards the maintenance of his two children.

Briefly stated that the opposite party filed a petition before the learned Jurisdictional Magistrate and learned trial court under Section 125 of the Code of Criminal Procedure was pleased to dispose of the application ex parte as the husband did not appear before the trial court despite service of summons. On 15th February, 2010, learned Judicial Magistrate directed the opposite party to pay to the petitioner wife a sum of Rs. 3,000/- for the maintenance of her two children. On 25th February, 2011, learned trial court rejected the prayer of the opposite party to vacate the ex parte order on the ground of limitation.

Learned Additional District Judge, Fast track, 2nd court, Haldia, Purba Midnapore before whom the order of learned Judicial Magistrate was assailed, was pleased to allow the criminal revision by setting aside the order dated 25th February, 2011 passed by the learned Judicial Magistrate with further direction upon the petitioner to pay maintenance towards his wife and to children as interim measure. As husband, it goes without saying that the petitioner incurred the obligation to maintain his wife who does not have any source of sustenance. It goes without saying as that he has obligation to maintain the minor child.

Considering the cost of living status of the parties, learned Additional Sessions Judge was pleased to pass the impugned order which in my view, does not call for any interference and does not require re-consideration and is dismissed. Interim order of stay stands vacated.

With this observation, the revisional application is dismissed.

Let a copy of the judgment be sent down to the trial court for information and necessary action.

Urgent photostat certified copy of this order, duly applied for, be given to the parties upon compliance of all requisite formalities.

(Siddhartha Roy Chowdhury, J.)