

29.08.2023  
SL.16  
Ct no.34  
Saswata

**CRR 3200 of 2023**

In Re:- An application under Section 482 read with Section 401 of the Cr.P.C.

In the matter of : **Dilip Bala**

... petitioner

Mr. S.Bhattacharya

...For the petitioner

1. The petitioner is aggrieved by the factum of the order dated 13<sup>th</sup> June 2022 passed by the Learned Judicial Magistrate, 1<sup>st</sup> Court at Bongaon, North 24 Parganas in M.Case no. 58 of 2018. The grievance of the petitioner is that the said decision was arrived at by the Learned Magistrate, ex parte and the present petitioner did not have the opportunity to canvas his view and/or adduce his evidence before the Court, so far as proof of marriage and/or his capacity to pay the amount, which has been awarded. The petitioner intends to adduce such evidence before the Learned Magistrate.
2. Having considered the fact that the petitioner did not approach the Learned Magistrate by exhausting the statutory provisions under Section 126 of the Cr.P.C., I am of the view that the petitioner be granted liberty to canvas the points before the Learned Magistrate by explaining as to why he could not participate in the proceedings and that for the ends of justice, it is required that he be allowed to adduce evidence before a final decision is arrived.

3. After such application is filed under Section 126 of the CR.P.C., the Learned Magistrate would consider the same in accordance with law. Needless to state that if there is any cause of delay, the Learned Trial Court shall consider the same with leniency in view of the revisional application pending before this Court.
4. However, in the mean time, the petitioner would go on paying the maintenance as directed by the Learned Judicial Magistrate by its order dated 13<sup>th</sup> June 2022.
5. With the above directions, the revisional application being CRR 3200 of 2023 is ***disposed of***.
6. Pending application, if any, is also disposed of.
7. Parties to act on a server copy of this order duly collected from the official website of the Hon'ble High Court at Calcutta.

**(Tirthankar Ghosh, J.)**