

14.09.2023

SL. 75
Court No. 34
Sourav/
Suvayan

C.R.R. 3458 of 2023

In re: An application Under Section 401 read with Section 482 of the Code of Criminal Procedure, 1973.

In the matter of: **Arindam Kundu**

... petitioner.

Mr. Jagannath Ganguly

...for the petitioner.

The revisional application has been preferred challenging the order dated 07.08.2023 passed by the learned Judicial Magistrate, 2nd Court, Sealdah in connection with M. Case No. 56 of 2016.

The grievance of the petitioner is that the interrogatories were not allowed by the learned Magistrate as according to the learned Magistrate, it was too early stage wherein the petitioner has not produced any documents for evidence till date. Learned Magistrate is directed to consider the observations of the Hon'ble Supreme Court in **Rajnesh Vs. Neha & Anr.**, Reported in (2021) 2 SCC 324, particularly, with regard to paragraph 72.6 which is quoted below:

“72.6. (f) *If there is any dispute with respect to the declaration made in the Affidavit of Disclosure, the aggrieved party may seek permission of the court to serve interrogatories, and seek production of relevant documents from the opposite party under Order 11 CPC. On filing of the affidavit, the court may invoke the provisions of Order 10 CPC or Section 165 of the Evidence Act, 1872, if it considers it necessary to do so. The income of one party is often not within the knowledge of the other spouse. The court may invoke Section 106 of*

the Evidence Act, 1872 if necessary, since the income, assets and liabilities of the spouse are within the personal knowledge of the party concerned.”

Learned Magistrate on the basis of the aforesaid directions of the Hon’ble Supreme Court will reconsider his order dated 07.08.2023 and arrive at his finding on the issue. If the petitioner by way of an application brings this order to the notice of the learned Magistrate on 18.10.2023, the learned Magistrate would dispose of the same within 60 days of filing of such application.

With the aforesaid observations, the present revisional application being **CRR 3458 of 2023** is disposed of.

Pending applications, if any, are 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.)

