

WPA 23915 of 2023

Mousumi Ghosh
Vs.
The State of West Bengal & Ors.

Mr. Biswajit Manna
...for the petitioner

Mr. Anirban Ray
Sk. Md. Galib
Mr. Abu Siddique Mallik
... for the State

Affidavit of service filed on behalf of the petitioner is taken on record.

Report filed on behalf of the State is also taken on record.

Learned counsel appearing on behalf of the petitioner submits as follows. The petitioner is the wife of the respondent No. 6. In 2019 the petitioner was constrained to file an application under Section 125 of the Code of Criminal Procedure praying for maintenance from her husband. In 2022, an interim order was passed directing payment of maintenance from the date of the order. In revision, it was directed that the payment should be made from the date of application. This order was also challenged. However, after all these the husband absconded. First, a distress warrant was issued and thereafter, warrant of

arrest kept on being issue by the learned Trial Court. But the police have failed to execute the warrant of arrest. Because a final report regarding execution of warrant of arrest is not forthcoming, learned Magistrate cannot proceed to pass further orders for issuance of proclamation and attachment.

Learned counsel appearing on behalf of the State relies on a report and submits that the report would indicate the number of dates on which raids were held after recording necessary GD entries. But, the warrantee had been absconding from the locality. However, the officer concerned shall file necessary report regarding execution of warrant of arrest before the learned Magistrate at the earliest.

It is strange that the police could not get hold of the respondent No. 6 although it appears from the affidavit of service that a notice could be served on him at his address. This is not to doubt the efforts made by the police authorities in executing the warrant of arrest.

Let the Investigating Officer file a report regarding execution of warrant of arrest before the learned Magistrate at the earliest. The petitioner shall be at liberty to pray for issuance of further process in this regard.

With these observations, the writ petition is disposed of.

Urgent Photostat certified copy of this order be supplied to the parties expeditiously, if applied for.

(Jay Sengupta, J)