

24.04.2023
Sl.no. 19
Ct. No. 236
P.M.

C.R.R. 4031 OF 2011

Jayanta Kundu.
- vs -
The State of West Bengal & Anr.

Mr. Narayan Prasad Agarwala,
Mr. Pratick Bose
... for the State

Despite service none is appearing on behalf of the petitioner or on behalf of the opposite party No. 2.

It is submitted that Mr. Ayan Bhattacharjee, learned advocate for the petitioner has retired from the brief.

This revisional application challenges the judgement and order dated 1st December, 2011 passed by learned Judicial Magistrate, Municipal Court, Howrah, in Miscellaneous Case No. 109 of 2010 under Section 125 of the Code of Criminal Procedure granting a sum of Rs. 3000/- towards maintenance of Smt. Banasree Kundu and Rs. 2000/- towards maintenance of the minor child. This application is pending since 2011.

I do not want to adjourn the matter suo moto, rather I want to dispose of the matter on merit based on the materials available with the record.

Depicting herself as legally a married neglected wife of Sri Jayanta Kundu, Smt. Banasree Kundu filed under Section 125 of the Code of Criminal Procedure before the

learned Jurisdictional Magistrate stating inter alia that her marriage with Jayanta Kundu was solemnized on 13th May, 2007. They stayed together from 13th May, 2007 till 21st August, 2009. The marriage was duly consummated and accordingly child was born on 26th November, 2008. Petitioner was subjected to mental and physical torture in her matrimonial home and she was driven out on 21st August, 2009 and had to take refuge in the house of her parents on 6th October, 2009. She informed the jurisdictional police station her husband is a man of means but he did not care to maintain either the petitioner or their minor child. The opposite party Jayanta Kundu contested the proceeding by filing written objection admitting the relationship between the parties and admitting the fact that he had further have a child.

Learned Trial Court after considering the evidence adduced by the parties was pleased to pass the order impugned. It goes without saying that Jayanta Kundu being the husband has incurred the responsibility to maintain his wife from the very date of marriage particularly when there is nothing to show that wife had income sufficiently to maintain herself. It goes without saying that as a father he has the responsibility to maintain the child. He did not disclose his income before the learned Trial Court which was within his special knowledge.

Under such circumstances I do not find any reason to interfere with the impugned order or judgement.

This revisional application is bereft of merit and dismissed however without costs.

(Siddhartha Roy Chowdhury, J.)