

23.02.2024

Item No.38
Ct.No.34
dc.

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION**

C.R.R. 42 of 2023

In the matter of : **Sri Debasis Pradhan** ... Petitioner.

Mr. Biswajit Sau ... For the Petitioner.

Mr. Subhrajit Saha ... For the Opposite Party.

The petitioner has challenged the proceedings under Section 127 of the Code of Criminal Procedure filed before the learned Judicial Magistrate, 1st Court, Howrah in Misc. Case No. 479 of 2022. The order dated 03.12.2022 has also been challenged by the petitioner. The main thrust of contention of the petitioner is that the Maintenance Case No. 63 of 2020 was preferred by the opposite party viz. Smt. Kona Pradhan @ Kona Khamrui Pradhan. The said maintenance case was referred to the Mediator and the learned Mediator was pleased to pass his order on 21.12.2021 pursuant to the agreement arrived at between the parties under Section 89 of the Code of Civil Procedure.

It is reflected amongst other that a sum of Rs.30,000/- per month was directed and the mode and manner of payment was expressed in the agreement itself which was approved by the learned Mediator and the same was communicated to the learned Judicial Magistrate, 1st Court, Howrah. Subsequently the opposite party no.2 for reasons which have been assigned in the application invoked the jurisdiction under Section 127 of the Code of Criminal Procedure being Misc. Case No. 479 of 2022 before the

learned Judicial Magistrate, 1st Court, Howrah. The spirit of the said application is for enhancement of the quantum which was decided on 21.12.2021 by the learned Mediator.

In view of the learned Mediator having passed the order and the said order being under Section 27 of the Mediation Act, 2023, I am of the view that the opposite party no.2, if at all would have her remedies before the civil court in consonance with the provisions of Mediation Act, 2023. Accordingly, the proceeding being Misc. Case No. 479 of 2022 including the orders passed therein by the learned Judicial Magistrate, 1st Court, Howrah is hereby quashed.

The revisional application being CRR 42 of 2023 is, thus, allowed.

Pending connected application, if any, is consequently disposed of.

All concerned parties shall act on the server copy of this order duly downloaded from the official *website* of this Court.

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

(Tirthankar Ghosh, J.)