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22-08-2024
Ct. No.34
b.das

CRR No. 69 of 2023

In the matter of : Pinku Guha Thakurta @ Biswas
..... petitioner.

Mr. Atindra Nath Misra ...for the petitioner.

Mr. Sandip Chakraborty
Mr. Koustav Das ...for opposite party.

Heard learned counsels for the parties.

The petitioner who is the wife of the private opposite party has assailed the order dated 4th November, 2022 passed by the learned Additional Chief Judicial Magistrate, 2nd Court, Kalyani, Nadia in Misc. Case No.18 of 2017 refusing maintenance to her upon observing that the petitioner has 50% share in Mouli Digital Cable Network and therefore has sufficient income from the said business which was admitted by her in her evidence.

Pursuant to an order passed by this Court on 18th April, 2024, the petitioner filed a supplementary affidavit annexing evidence of the petitioner before the learned Trial Court. It appears from the said evidence that the petitioner has admitted being 50% owner of Mouli Digital Cable Network. She has stated in her affidavit in chief that the said business was transferred in favour of the

opposite party's sister Bula Guhathakurta and the petitioner in 2013 by the private opposite party in order to avoid income tax but the business was physically handled by the husband.

Even if the said version of the petitioner is taken to be correct, it is inconceivable that the petitioner admittedly being 50% owner of the business does not earn a single farthing therefrom.

The mere fact that the private opposite party allegedly looks after the business is far from sufficient to conclude that the entire earnings from the business is taken by the opposite party and not a farthing given to the petitioner.

The opposite party/husband has submitted in his cross-examination before the learned Trial Court that he is not acquainted with the name of Mouli Digital Cable Network.

In the order impugned, the learned Trial Court has recorded that the opposite party is admittedly a patient of liver cirrhosis and has to bear the expenses of his treatment. The learned Trial Court has also recorded that since the petitioner owns 50% share of the business and has sufficient income from the said business, she is not entitled to any relief under Section 125 of the Code of Criminal Procedure.

Sufficient reasons have been assigned by the learned Trial Court in turning down the prayer of the petitioner under Section 125 of the Code. The learned Court has considered the evidence led before him by the parties in its proper perspective, particularly the admission made by the petitioner, and has passed a reasoned and speaking order thereto. There is no illegality or irregularity in the said order which calls for interference by this Court.

The revisional application being devoid of any merit is liable to be dismissed.

CRR 69 of 2023 is dismissed.

Case Diary be returned.

There shall, however, be no order as to costs.

Urgent certified website copy of the order, if applied for, be given to the parties on compliance of requisite formalities.

(Suvra Ghosh, J.)