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CRR 1115 of 2024

In Re : Mitali Das

... Petitioner.

Mitali Das

... Petitioner in person

Sabir Ahmed

Mr. Swagata Biswas

Taslim Ahamed

... For the Opposite Party

The petitioner appearing in person has assailed the order passed by the learned Judicial Magistrate, 2nd Court, Bolpur on 7th November, 2023 in Misc. case 129 of 2020 filed under Section 125 of the Code of Criminal Procedure turning down the application filed by the petitioner under Order VI Rule 17 of the Code of Civil Procedure. In rejecting the prayer of the petitioner, learned trial Court has held that though the petitioner was aware that her minor daughter was suffering from Autism Spectrum Disorder from the certificate issued by doctor on 19th December, 2022, she did not include the same in her application under Section 125 of the Code of Criminal Procedure which was filed on 3rd October, 2023. Learned trial Court has opined that if the amendment petition is allowed, the case would have to be started afresh which would frustrate the trial and also vitiate the purpose of speedy trial.

True, the fact of the disease of the minor child was not included in the application under Section 125 of the Code by the petitioner. But at the same time, it should be borne in mind that the matter pertains to the physical and mental health of the minor child suffering from Autism Spectrum Disorder and requiring specialized treatment for the same. The amendment petition is required to be allowed in order to bring out the real state of affairs in connection with the requirement of the child before the Court and for proper adjudication of the case and the same cannot be turned down merely on the ground of delay in filing the same.

Keeping in mind the restriction laid down in Order VI Rule 17 of the Code of Civil Procedure, this Court is of the view that laws are not merely letters and are meant to be applied to human life. As a Court of equity, the petitioner who is the unfortunate mother of the child requiring special care may be allowed to ventilate her plight before the learned trial Court by incorporating certain relevant facts in her application.

In view of the above, this Court is inclined to hold that the application filed by the petitioner under Order VI Rule 17 of the Code of Civil Procedure be allowed upon setting aside the order passed by the learned Judicial Magistrate, 2nd Court, Bolpur on 7th November, 2023 in Misc case 129 of 2020.

The petitioner is at liberty to amend the application filed under Section 125 of the Code in terms of the application filed by her under Order VI Rule 17 of the Code. Learned trial Court shall accept the amended application filed by the petitioner under Section 125 of the Code of Criminal Procedure and proceed with the trial of the case in accordance with law.

The revisional application being CRR 1115 of 2024 is disposed of.

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

(Suvra Ghosh, J.)