

02.05.2024  
Sl.No. 32  
Ct. 32  
Amalranjan

In The High Court At Calcutta  
Criminal Revisional Jurisdiction  
Appellate Side

CRR 2717 of 2018

Smt. Gopa Paul (Nee Ghosh)  
Vs.  
Shri Chanchal Paul and anr.

Nobody appears on behalf of either of the parties on call. Even on earlier occasion no one represented the petitioner, no accommodation sought for.

This case is taken up for disposal on merit considering the nature of prayer and to avoid further delay as the case pertains to the year 2018.

The instant revisional application has been filed by the petitioner under sections 401 and 482 of the Criminal Procedure Code, 1973 challenging the correctness legality and propriety of the order dated 05.09.2018 passed by the learned Judicial Magistrate, 2<sup>nd</sup> Court at Barasat in M. Case no. 4012 of 2014 thereby the learned court below was rejected the prayer for adjournment on the date fixed on 5.9.2018. The date was fixed for filing show cause by the petitioner.

It is the contention of the petitioner that the petitioner had filed an application under section 125 of the Criminal Procedure Code, 1973 before the learned Judicial Magistrate, Barasat seeking maintenance to the tune of Rs. 15,000/- per

month only for herself and 15,000/- per month for her minor child. The same case was registered as M-4012 of 2014. The said case was subsequently transferred before the learned Judicial Magistrate, 2<sup>nd</sup> Court at Barasat for its disposal. But without giving any opportunity to the petitioner, the case was dismissed by the learned court below.

Feeling aggrieved with the said impugned order, the present petitioner filed this revisional application with a prayer for setting aside the said order. Hence this revisional application.

Having considered the application and annexures thereof and order passed by the learned Magistrate, this court finds that the learned Magistrate has given several opportunities to the petitioner to place her case. But she did not turn up. When she did not turn up, the learned Magistrate issued a show cause to the petitioner. But even after issuing show cause, the petitioner did not move any application till 12 p.m. on the date fixed i.e., on 5.9.2018.

At 12.15 p.m. the learned advocate for the petitioner filed a time petition without filing show cause. The learned advocate filed a time petition on the ground that she has suffered from stroke, as such she could not appear to file the show cause. He also filed some medical papers, but when the learned Magistrate gone through the medical papers it was found that the medical papers were more than one year older. She was discharged from the hospital on 18.1.2017.

It further appears from the impugned order dated 5.9.2018, a time petition was filed on behalf of the petitioner on 20.7.2017 and the same was rejected by the learned Magistrate and issued a show cause to the petitioner and fixed another date i.e., on 13.11.2017, but she had filed time petition without no show cause on the date fixed i.e., on 5.9.2018.

Learned court below did not satisfy with the medical report filed by the petitioner and finally observed that the petitioner is dragging the case and she has no urgency to proceed with the case.

That being the position, the learned court had no option but to reject the same.

This court does not find any infirmity or illegality or incorrectness of the said order. Several opportunities were given to the petitioner to place her case. Despite of the facts the petitioner was not interested to proceed with the case.

Accordingly, the prayer was rejected.

I also concur the findings of the learned court below.

Under the above circumstances, **CRR 2717 of 2018** is, thus, dismissed without any order as to costs.

The interim order, if any, stands vacated.

Let the order be communicated to the Ld. Court below for information.

Liberty is granted to all parties to act in terms of the copy of this order downloaded from the official website of this court.

Urgent Photostat certified copy of this order, if applied for, be supplied to the parties taking all legal formalities.

( Ajay Kumar Gupta, J. )