

20.12.2024

Item No.DL/16
Court No. 30

Asraf, AR(Ct.)

IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction
Appellate Side

CRR 3033 of 2023

KAJOL KIRTONIA
VS.
THE STATE OF WEST BENGAL & ORS.

Mr. Imtiaz Ahmed
Mrs. Ghazala Firdaus
Mr. Mofakkerul Islam
Mr. Sk. Saidullah
Mr. Debopam Roy
Mr. Mithun Mondal
Mr. Md. Arsalan

.....for the Petitioner

Ms. Amita Gour, Sr. Govt. Advocate

.....for the State

Mr. Navanil De
Ms. Monami Mukherjee

.....for the Opposite Party No.2

The present revisional application has been preferred challenging the order dated 14.07.2023 in CR case no.788 of 2018 passed by the learned Additional Chief Judicial Magistrate, Serampore, Hooghly wherein the learned Magistrate has directed the Inspector-in-Charge, Dankuni police station to hand over the child to the custody of the father Swapan Sarkar.

The present petitioner being the maternal grandmother of the child has approached this Court being aggrieved by the said order. The mother of the child has died in her matrimonial house of burn injuries and a proceeding under Section 304B of IPC including Sections 498A and 34 of IPC and Sections 3 and 4 of the Dowry Prohibition Act is pending against the father and others and another case being Act VIII case no.41 of 2008 was filed

before the learned District and Sessions Judge, Hooghly and the same was dismissed for default. The father was the petitioner therein. The father of the petitioner is at liberty for restoration of the said case for custody of the child. In the meantime, Inspector-in-Charge, Dankuni police station has already handed over the child to the father and as such, the Act VIII case has now become infructuous.

It is further submitted by the learned counsel for the petitioner being aggrieved by the said order the opposite party herein had moved the learned Sessions Judge by filing criminal motion case being no.14 of 2021. Learned Additional Sessions Judge, Second Court, Serampore, Hooghly, finally by his order dated 27th April, 2022 disposed of the revisional application by holding as follows :-

“10. The criminal motion be and the same and allowed on contest. The impugned order dated 31.05.2019 passed by the learned ACJM, Serampore, Hooghly in connection with C.R Case No.788/2018 is set aside and the application dated 04.04.2009 filed by Swapan Sarkar is allowed. Learned ACJM, Serampore is directed to take proper steps for restoration of the custody of child Jiban Sarkar to his father Swapan Sarkar.”

As such, the present revisional application challenging the same order before the High Court is not maintainable.

The present revisional application is thus **disposed of** as not maintainable.

Applications, if any, connected thereto stand disposed of consequently.

Interim order, if any, stands vacated.

Let a copy of this order be sent to the Trial Court at once.

Parties to act on the basis of server copy of this order duly downloaded from the official website of this Hon'ble High Court.

Urgent Photostat certified copy of this judgment and order, if applied for, be supplied to the parties expeditiously after complying with all requisite formalities.

[Shampa Dutt (Paul), J.]