

04.10.2024
Item No. 2
SG

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

C.R.R. No. 3487 of 2024

In the matter of : Binod Kumar Mishra

.....petitioner

Mrs. Dipanwita Ganguly

....for the petitioner

1. Petitioner has assailed the judgment and order dated 18.03.2024 whereby the revisional Court set aside the order passed by learned Judicial Magistrate refusing maintenance to opposite party-wife and directed the learned Magistrate to consider the issue afresh in light of documents filed by the opposite party-wife to prove the marriage between herself and the petitioner.
2. Learned counsel for the petitioner contends that the documents, that is, voters' list, identity card, photographs were belatedly filed. On the other hand, criminal case had been lodged by one Jahar Mishra alleging that the opposite party was his lawfully married wife which proves that the marriage between the petitioner and opposite party is a void one.
3. I have considered the materials on record. Opposite party claimed that the marriage was solemnized between herself and the petitioner on 10.02.1998. During her matrimonial life she was subjected to cruelty and driven out of the matrimonial home. In this backdrop, she prayed for maintenance from the

petitioner who is a school teacher as well as engaged in business.

4. Petitioner contends opposite party was not his legally married wife. He was married to one Chanda Pathok and a male child was born from the wedlock. Evidence were led on behalf of the parties and learned Magistrate after consideration of materials on record rejected the plea for maintenance. During hearing of the revision petition opposite party produced a voters' list, petitioner's identity card and photographs which showed that she was his married wife.
5. In this backdrop, the revisional Court remanded the matter for fresh consideration and liberty was given to produce the documents before Magistrate. In a maintenance proceeding wife need not prove the marriage beyond reasonable doubt. In the event she can prove the couple was residing as husband and wife strict and legal proof of marriage is not necessary. Documents produced in the revisional proceeding clearly show that the opposite party was described as wife of the petitioner. These are relevant pieces of evidence which require to be considered by the learned Magistrate.
6. Under such circumstances, revisional Court was justified in remanding the matter for fresh consideration in light of the aforesaid documents by the learned Magistrate.
7. Accordingly, CRR 3487 of 2024 is disposed of.

(Joymalya Bagchi, J.)