

29.02.2024

Item No.51
Ct.No.34
dc.

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

C.R.R. 4444 of 2023

In the matter of : **Shashi Prakash Shaw** ... Petitioner.

Mr. Kaushik Sarkar ... For the Petitioner.

Mr. Aniruddha Bhattacharya,
Ms. Ritwika Ghosh,
Mr. Uttam Mukherjee ... For the Opposite Party Nos. 2 and 3.

Learned advocate appearing for the petitioner is directed to serve copy of this revisional application upon Mr. Bhattacharya, learned advocate appearing for the opposite party nos. 2 and 3.

The grievance of the petitioner is that the order of interim maintenance was passed *ex parte* without any audience. The petitioner earlier approached the revisional court. I am of the view that if a statutory provision is already incorporated in Chapter 9 of the Code of Criminal Procedure unnecessarily a revisional court will not exercise its jurisdiction.

The petitioner would be at liberty to assign his reason by taking out appropriate application under Section 126 of the Code of Criminal Procedure before the learned Judicial Magistrate. The learned Judicial Magistrate will dispose of such application within three months from the date of filing after issuing notice to the respective parties.

Needless to state that the learned trial court would independently decide the issue without being influenced by

any observations made by this Court while disposing of this revisional application.

This order will not preclude the learned Magistrate from exercising his jurisdiction so far as other connected subsequent proceedings are concerned which have been initiated and are arising out of case no. M-61 of 2021.

With the aforesaid observations, the revisional application being CRR 4444 of 2023 is disposed of.

Pending connected application, if any, is consequently disposed of.

All concerned parties shall act on the server copy of this order duly downloaded from the official *website* of this Court.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Tirthankar Ghosh, J.)