

D/L58
21.03.2024
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C.R.R.4453 of 2023

In Re: An application under Section 397, 401 read with Section 482 of the Code of Criminal Procedure;

Prasun Adhikary
Versus
State of West Bengal and another

Mr. Chittaranjan Ray.
...for the petitioner.

The revisional application has been preferred against an order dated 27.02.2023 passed in M.Case No.47 of 2021.

I find from the said order that the learned Magistrate awarded an interim maintenance of Rs.3,000/- per month to the wife from the date of filing of the application.

Learned advocate appearing for the petitioner submits that such order of interim maintenance was passed ex parte without any audience from the opposite party/husband.

A written objection was placed before the learned Magistrate at the instance of the petitioner and the main thrust of contentions of the husband was that the marriage which was claimed is fake and there is denial in respect of all the allegations. Learned Magistrate took the factual circumstances into account and thereafter passed the impugned order.

So far as the issue relating to marriage is concerned, the same is to be considered at the time of trial as prima facie the wife has satisfied relating to the conditions for invoking the jurisdiction of the learned Magistrate under the provisions of Chapter IX of the Code of Criminal Procedure.

So far as the other condition is concerned regarding the interim order being passed ex parte, I direct that if the learned Magistrate finds that the interim order passed ex parte is without any audience from the present petitioner/husband and the petitioner files an application under Section 126 of the Code of Criminal Procedure, learned Magistrate will consider the contentions under Section 126 of the Code of Criminal Procedure as to whether the same has been satisfied or not and decide the same in accordance with law. No interference is made by this Court at this stage.

With the aforesaid observations, CRR 4453 of 2023 is disposed of.

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

All 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 of all requisite formalities.

(Tirthankar Ghosh, J.)