

13.01.2025
S.L No. 6
Ct. No. 30
SM

CRR 317 of 2020

Chitra Das
VS.
Gautam Shroff @ Gautam Roy Govind Shroff & Anr.

Mr. Sukanta Chakraborty
Mr. Anindya Halder
.....for the petitioner

Mr. Satadru Lahiri
Mr. Jyotirmoy Talukder
.....for the Opposite party

The present revisional application has been preferred against an order dated November 1, 2019 passed by the learned Additional Sessions Judge, 18th Court, Alipore, South 24 Paraganas in Criminal Appeal No. 7 of 2018 arising out of order dated October 12, 2017 passed by the learned 3rd Judicial Magistrate at Alipore, South 24 Paraganas in A.C. 1081 of 2014. By the said order under revision the learned Sessions Judge affirmed the order dated 12.10.2017 passed by the learned Judicial Magistrate 3rd Court, Alipore, wherein the learned Magistrate held as follows.

“Petitioner prays for direction upon the respondent to pay monthly rent of the flat being No. 113 N.S.C Bose Road, PS Regent Park, Kolkata-40 or direction to arrange an alternative accommodation of the ground that the respondent left the aggrieved person in the rented flat without any prior intimation. Respondent stopped the payment of the said flat to the owner. She has no shelter of her house. Respondent is paying Rs. 10.000/- per month to the aggrieved person which is not sufficient for maintenance under the

direction of Hon'ble High Court, Calcutta. The respondent denied the claim of the aggrieved person. Respondent is paying amount as interim relief to the aggrieved person as per the direction of the Hon'ble High Court. The aggrieved person in another proceeding being case AC-32/15 where the aggrieved person is the complainant and stated in her cross examination that she was not a resident of alleged flat at Tolly Tower which is subject matter of the application of aggrieved person. Aggrieved person is in the attempt of modification of order already finalized by the Hon'ble High Court. On perusal of the case record and other documents, it appears that the respondent is paying the amount which is decided by the Hon'ble High Court regularly. The aggrieved person has already filed affidavit in chief and cross-examined in part as PWI. At this juncture the modification or direction sought by the aggrieved person is not supported with any document that she has the possession of the flat No. 408 at 113 N. S. C. Bose Road, Kolkata - 40. Rather it is crystal clear in her cross examination that she is not resident of the above premises. Considering the above facts and stage of the case this Court is not inclined to allow the application filed by the aggrieved person. The petition of the aggrieved person is devoid of merit. Accordingly the petition dated 06.05.2017 filed by the aggrieved person is rejected on contest to 15/11/17 for evidence."

It is submitted by the learned counsel for the petitioner that **admittedly at the relevant time the wife/petitioner was residing in the shared household of the husband and subsequently she has shifted to Tolly Tower.**

Considering the submissions of both the parties including written notes filed by Mr. Lahiri, learned counsel for the opposite party it appears that at the time when the learned Magistrate and the learned Sessions Judge considered the grievance of the petitioner herein, the petitioner was admittedly not a resident of Tolly Tower. It is submitted that subsequently the petitioner has shifted to the said alternative accommodation at Tolly Tower and has to pay a substantial amount for her alternative accommodation including other charges, the petitioner is suffering greatly.

This Court finds that the cause of action for claiming the rent for the alternative accommodation arose after the matter was considered by the learned Magistrate and the ld. Sessions Judge and as such this Court finds no ground to interfere with the order of the learned Magistrate and the learned Sessions Judge which is subject to revision before this Court, the same being in accordance with law.

The petitioner is at liberty to approach the appropriate Court with her prayer afresh along with supporting documents.

CRR 317 of 2020 stand disposed of.

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.

Photostat certified copy of this order, if applied for, being given to the parties on priority basis upon compliance of all formalities.

[Shampa Dutt (Paul), J.]