

19.09.2025

Sl. no. 8

Ct. No. 29

P.M.

C.R.R. 2235 OF 2025
Sandip Naskar
Vs
The State of West Bengal & Anr.

Mr. Uttam Kukmar Halder
... for the Petitioner

Affidavit of service filed by the petitioner is taken on record.

Opposite party/respondent is not represented.

Petitioner's case is that the opposite party No. 1 herein filed an application under Section 125 of the Cr.P.C. seeking maintenance of Rs. 45000/- per month. The petitioner/husband engaged an advocate to enable to file written objection. Due to advocate's inaction and professional hardship the written objection could not be filed in time. Petitioner's father was also by this time became seriously ill and was hospitalized from August 2023 to December, 2023 and on 2nd December, 2023, Petitioner's father passed away. Petitioner, thereafter, engaged senior advocate and sought for time for filing written objection against the maintenance application filed by the opposite party herein on 2nd March, 2024. However, learned

Trial Court by order dated 2nd March, 2024 dismissed the petitioner's prayer for filing written objection along with petitioner's prayer for filing affidavit of assets and liabilities and was pleased to schedule the matter for ex-parte hearing on 5th July, 2024.

Petitioner herein being aggrieved by that order preferred a revisional application before the Additional District Judge being Criminal Revision No. 2 of 2024. While said revisional application was disposed of, the revisional court ordered to file the written objection and affidavit of disclosure of assets and liabilities within fifteen days and thereby allowed revisional application subject to payment of cost of Rs. 2,000/-.

Petitioner's further contention is that though the matter was heard on 18th January, 2025 but the order was put in server on 4th February, 2025 showing that the order was passed on 18th January, 2025. However, petitioner obtained certified copy of the said order on 6th February, 2025 and thereafter, on 12th February, 2025 petitioner paid the cost of Rs. 2,000/- to opposite party No. 1 as awarded by the revisionall Court.

Thereafter, on 25.05.2025 the petitioner submitted his written objection along with affidavit of

disclosure of assets and liabilities but the trial court refused to accept the same and scheduled the maintenance proceeding for ex-parte hearing on 24th April, 2025.

Being aggrieved by that order the petitioner herein preferred another revisional application being Criminal Revision No. 3 of 2025 before the Court below. Learned Court below by the impugned order dated 22nd April, 2025 allowed the said criminal revisional application observing that the revisionist/ husband is granted final opportunity to contest the case on condition that he shall pay respondent No. 1, the consolidated cost of Rs. 15,000/- positively by 24.4.2025 and he further ordered that if the revisionist pay the cost of Rs. 15,000/- to the respondent No. 1 within the time frame, he shall not be required to pay cost of Rs. 2,000/- as was imposed by this Court in Criminal Revision No. 2 of 2024.

Petitioner thereafter filed a modification/ rectification application on 23rd April, 2025, which was also rejected.

Being aggrieved by the said order learned Counsel appearing on behalf of the petitioner submits that the petitioner is a day labour having earning of Rs. 5000/- per month, which makes it impossible for

him to pay Rs. 15,000/- towards cost imposed by the revisional court and such amount is excessive and disproportionate. The petitioner has already paid Rs. 2,000/- towards cost as appeared from earlier order and therefore there is no question of waiving the payment of said cost of Rs. 2,000/- The Trial Court refused to accept the petitioners written objection and affidavit of disclosure of assets and liabilities, despite the revisional court granting him an opportunity to file. He further submits that the petitioner was unable to comply with the revisional courts first direction, due to the circumstances beyond his control and as such he prayed for setting aside the order impugned and prays for giving him an opportunity to contest the case.

Having heard the learned counsel appearing on behalf of the petitioner it appears to me that the allegation of the petitioner is that though the order of the revisional court in connection with criminal revision No. 2 of 2024 was passed on 18.01.2025 granting fifteen days time to file written objection and affidavit of disclosure of assets and liabilities, but said order was uploaded only on 4th February, 2025 when the petitioner first time became aware of the Courts order.

It further appears that petitioner did not have any scope to obtain the certified copy of the said order and he also showed his bonafide by paying Rs. 2000/- to the opposite party in compliance with the order passed in criminal revision No. 2 of 2024 on 12.02.2025.

It is the settled law that the weighty consideration for all such cases should be that the application filed by the aggrieved party is to be disposed of on merit as far as possible.

Petitioner specifically submits that he has already filed the written objection and affidavit of disclosure of assets and liabilities before the Court below on 25.05.2025.

In such circumstances I find that the Trial Court ought to have taken up the matter for contested hearing and to dispose of the same at the earliest without insisting with the technical issue of payment of further cost.

In such view of the matter, the impugned order dated 22.04.2025 so far it relates to payment of cost of Rs. 15,000/- is concerned is hereby set aside.

The petitioner herein has already filed written objection along with the affidavit of

disclosure of assets and liabilities. The trial court is directed to accept the petitioner's written objection as well as affidavit of disclosure of assets and liabilities and to proceed with the case in accordance with law and to come to a logical conclusion on merit at the earliest after giving opportunity to both the parties to contest, preferably within a period of six months from the next date of the hearing.

CRR 2235 of 2025 is disposed of .

Record of the trial court as well as revisional court be returned forthwith.

Urgent photostat certified copy of this order, duly applied for, be given to the parties upon compliance of all usual requisite formalities.

(Dr. Ajoy Kumar Mukherjee, J.)