

14.05.2025
SL No.54
Court No.22
S.Gayen

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

CRR 2241 of 2024

**Subhankar Adhikary
Versus
The State of West Bengal & Anr.**

Mr. Anirban Dutta
Mr. Ayan Mondal

...for the Petitioner

Mr. Dhananjay Banerjee
Mr. Proloy Hazra

...for the Opposite Party No.2

1. This instant revisional application has been preferred against the judgment and order dated 26.04.2024 passed in connection with Criminal Revision No. 20 of 2023, wherein the learned Additional Sessions Judge, Fast Track 3rd Court, Barasat, North 24 Parganas upheld the order dated 11.11.2022 passed by the learned Judicial Magistrate, 2nd Court, Barasat, North 24 Parganas in connection with Misc. Case No. 239 of 2017 under Section 125 CrPC.
2. Both the learned counsel appearing on behalf of the parties to this revisional application are present.
3. Learned counsel appearing on behalf of the petitioner has drawn my attention to the copy of the order passed in connection with MAT Suit No. 1942 of 2016 dated 19.10.2020 under Section 9 of the Hindu Marriage Act, 1955 as well as the order dated 02.08.2022 passed in connection with MAT Suit No. 2628 of 2021 under Section 13(1A) (ii) of the Hindu Marriage Act, 1955 and

submitted that the wife/opposite party herein willfully deserted the petitioner and thereby, she is not entitled to any interim maintenance in terms of provision of Section 125 (4) CrPC.

4. From the judgment passed by the learned Revisional Court it appears that the ground of existence of orders in MAT Suit No. 1942 of 2016 and MAT Suit No. 2628 of 2021 was duly referred to before the Revisional Court containing, *inter alia*, that the existence of those decree of two matrimonial suits were not taken into account by the learned Trial Court. It also appears from the judgment passed by the learned Revisional Court that the learned Judge framed four issues/grounds for proper adjudication of the revisional application. The learned Judge decided the issue/ground Nos. I, II, III but did not consider the issue/ground No. IV which is the only legal issue to be dealt with in terms of Section 125(4) CrPC.
5. In the aforesaid view of the matter, the matter is remanded back to the learned Additional Sessions Judge, Fast Track 3rd Court, Barasat, North 24 Parganas with the request to rehear the revisional application particularly the issue/ground No. IV in connection with Criminal Revision No. 20 of 2023 in terms of observation made hereinbefore.
6. As a sequel, the judgment and order dated 26.04.2024 stands set aside.
7. The learned Trial Judge is requested to dispose of the revisional application within four weeks from the date of communication of this order.

8. With the aforesaid observations, the revisional application stands disposed of.
9. Liberty is given to the petitioner to file appropriate application for stay of Misc. Case No. 16817 of 2022 and in case of filing of such application, the learned Judge will hear the same after giving an opportunity to the other side.
10. Parties are at liberty to communicate this order to the learned Trial Judge for necessary compliance.
11. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.
12. Urgent Photostat certified copy, if applied for, be given to the parties upon compliance with all requisite formalities.

(Bibhas Ranjan De, J.)