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09-01-2025
Ct. No.34
b.das

CRR No. 3469 of 2024

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CRAN 2 of 2024

In the matter of : Swapan Kumar Goswami .. petitioner.

Mr. Mukunda Lal Sarkar ...for the petitioner.

Mr. Ranajoy Chatterjee
Mr. Tamal Singha Roy ...for the opposite party.

Affidavit of service and supplementary affidavit filed
by the petitioner are taken on record.

By consent of the parties, the revisional application
is taken up for consideration.

Heard learned counsels for the parties.

The petitioner is aggrieved by the ex parte order
passed by the learned Judicial Magistrate, Kalyani, Nadia
on 16th August, 2023 in Misc. Case No.98 of 2021
primarily on the ground that he was not granted an
opportunity of being heard by the learned Magistrate
before the order impugned was passed.

It appears that the matter could not be taken up for
consideration by the learned Magistrate on several
occasions due to various reasons and on 26th June, 2023,
despite a resolution of the local bar, the learned Magistrate
fixed 10th August, 2023 for “show cause by the present

petitioner, in default ex parte hearing”. The present petitioner did not take steps before the learned Trial Court on that date due to resolution taken by the local bar. On 10th August, 2023, the matter was taken up for ex parte hearing and the opposite party examined as PW 1. Upon hearing ex parte argument, the learned Trial Court allowed the application filed by the opposite party/wife under Section 125 of the Code of Criminal Procedure in part and directed this petitioner to pay maintenance to the tune of Rs.12,000/- per month to the opposite party from the date of the order.

Since the petitioner is inclined to contest the application under Section 125 of the Code of Criminal Procedure before the learned Trial Court, such liberty should be granted to him in the interest of justice.

In view of the above, the revisional application being CRR 3469 of 2024 is allowed.

The order dated 16th August, 2023 passed by the learned Judicial Magistrate, Kalyani, Nadia in Misc. Case No.98 of 2021 be quashed/set aside.

The matter be sent back to the learned Trial Court for fresh consideration upon granting reasonable opportunity of hearing to both the parties, in accordance with law.

As a consequence, the execution case being No.106 of the 2024 is set aside/quashed.

Pending disposal of the application under Section 125 of the Code, the petitioner shall continue to pay Rs.8,000/- per month to the opposite party in terms of the order passed by this Court on September 4, 2024.

The application being CRAN 2 of 2024 is also disposed of.

Urgent certified website copy of the order, if applied for, be given to the parties on compliance of requisite formalities.

(Suvra Ghosh, J.)