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C.R.R. 5134 of 2024

Re: Chandan Das

**Mr. Shibaji Kr. Das
Mr. Dipendu Sarkar
Ms. Nilanjana Sarkar**

... For the Petitioner

**Mr. Rahul Kr. Singh
Mr. Subhajit Das
Altamas Kabir**

... For the Opposite Party

Supplementary affidavit filed by the petitioner is taken on record.

Heard learned counsels for the parties.

The petitioner has assailed the order dated 11th November, 2024 passed by the learned Additional Chief Judicial Magistrate, 2nd Court, Kalyani, Nadia in Misc. Execution case no. 32 of 2020 arising out of Misc. Case no. 134 of 2016 under Section 125 of the Code of Criminal Procedure. By the order impugned, the learned Magistrate has not taken into consideration the amount of Rs.15,35,000/- paid by the petitioner for the educational expenses of the daughter.

The execution case being Misc. Execution case no. 32 of 2020 was filed by the opposite party for the period 29th July, 2016 to 29th January, 2020 which was modified by the learned Additional Sessions Judge, Kalyani Nadia by a judgment delivered on 7th September, 2022 in Criminal Revision no. 7 of 2021 to the extent that the execution case would cover a period from January, 2019 to January, 2020. The petitioner has claimed that the amount of Rs. 15,35,000/- paid by him for the daughter ought to be adjusted with the said amount. It is not in dispute that the daughter of the parties is pursuing her studies at

Nottingham Trent University, United Kingdom. Learned counsel for the petitioner has submitted that it shall appear from the Visa of the girl that she was permitted to work for 20 hours per week term during her study in the United Kingdom as student and has, therefore, earned some amount to eke out her livelihood .

Per contra, learned counsel for the opposite party has submitted that it is not possible for the child to sustain on the meagre amount paid to her for the limited work that she is permitted to perform as a student in the United Kingdom. Also, the child went to the United Kingdom to pursue her studies in 2022 whereas the execution case in connection with which the present application has been filed is for the period January, 2019 to January, 2020, that is, prior to the period for which the amount was paid to her by the petitioner.

It is not in dispute that the Misc. Execution case being 32 of 2020 pertains to the period January, 2019 to January, 2020. The amount of Rs.15,35,000/- was paid by the petitioner for educational expenses of the child in two instalments on 28th September, 2021 and 11th October, 2021 respectively. Therefore, the Misc. Execution case does not cover the period when the amount was paid by the petitioner for the child.

In view of the above, this Court is inclined to hold that the petitioner is liable to pay arrears with regard to Misc. Execution case no. 32 of 2020 to the opposite party within a month from date. It is pertinent to record that out of the entire due pertaining to the said execution case, Rs. 45,000/- has been paid by the petitioner.

This Court is informed 5 other execution cases filed subsequent to the present case are pending before the learned Executing Curt.

The petitioner shall be at liberty to urge the issue of payment of a lump sum amount of Rs.15,35,000/- before the learned Executing

Court in connection with the execution case/cases filed for the relevant period.

CRR 5134 of 2024 is disposed of.

Since no affidavit has been invited, the allegations made in the revisional application are deemed not to have been admitted.

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

(Suvra Ghosh, J.)