

**Sl. No.630
19.12.2025
Suman
Ct. 15**

**In the High Court at Calcutta
Special Civil Jurisdiction
Appellate Side**

CRLCP 1 of 2024

**Narendra Nath Sil
Vs.
Miss. Atri Chandra and Anr.**

**In
CRR 2085 of 2022**

**Narendra Nath Sil
Vs.
Srabani Sil Paul @ Srabani Shil**

Mr. Narendra Nath Sil (In person)

This Court is of the view that the present contempt application is not maintainable. However, after hearing, this Court is of the opinion that, apart from passing an order of dismissal, certain ancillary directions ought to be issued in this contempt application in favour of the petitioner, who has chosen to appear before this Court in person in support of his case.

The facts leading to the filing of the present contempt application may be briefly stated in chronological order.

Admittedly, the petitioner married Respondent No. 2 in the year 2007. It is alleged by the petitioner that soon after the marriage, Respondent No. 2 left the matrimonial home and subsequently contracted a second marriage with one Paritosh Paul.

It appears, however, that Respondent No. 2 filed an application for maintenance under Section 125 of the Code of Criminal Procedure, 1973, before the learned Judicial Magistrate, 1st Court at Barasat, which was registered as Maintenance Case No. 201 of 2008. Upon contested hearing, the learned Magistrate, by an order dated October 12, 2018, granted monthly maintenance of ₹9,000/- in favour of Respondent No. 2 from the date of passing of the order.

Thereafter, Respondent No. 2 initiated two execution proceedings, being Misc. Execution Case No. 94 of 2022 and Misc. Execution Case No. 106 of 2022, for enforcement of the order dated October 12, 2018.

Challenging the said execution proceedings, the petitioner preferred CRR 2085 of 2022 before this Court. A learned Judge of this Court, by an order dated July 1, 2022, disposed of the said revisional application, directing the learned Judicial Magistrate, 1st Court at Barasat, to take into

consideration the allegation of the second marriage of Respondent No. 2 and thereafter pass appropriate orders in Misc. Execution Case No. 94 of 2022 and Misc. Execution Case No. 106 of 2022.

Pursuant to the order dated July 1, 2022, the petitioner filed an application before the learned Judicial Magistrate, 1st Court at Barasat, seeking consideration of the said order of this Court. The learned Magistrate, however, by two identical orders dated January 20, 2023, passed in Misc. Execution Case No. 94 of 2022 and Misc. Execution Case No. 106 of 2022, rejected the said application, observing inter alia as follows:

“Having considered the submissions of both the Ld. Advocates, this Court is of the view that the second marriage of the petitioner of this case will surely be taken into consideration if the Opposite Party comes before the appropriate forum under appropriate provisions of law and there is no scope to recall the warrant of arrest issued against the Opposite Party for non payment of maintenance, as prayed for in the instant executing proceeding as this Court being executing Court cannot go beyond the order in execution.”

Subsequent to the aforesaid order passed by the learned Magistrate, steps were taken for execution of the warrant of arrest against the petitioner. Apprehending arrest, the petitioner filed

an application for anticipatory bail being CRM(A) 490 of 2023.

The Division Bench of this Court disposed of the said application on March 1, 2023, by directing the Chief Works Manager, Eastern Railways, Kanchrapara Workshop, to disburse a sum of ₹25,000/- and ₹9,000/- respectively to the bank account of Respondent No. 2, towards arrear maintenance and current maintenance, commencing from the month of March 2023, and to continue such disbursement until further orders of a competent court.

The petitioner submits that, in compliance with the order dated March 1, 2023, amounts of ₹25,000/- and ₹9,000/- are being regularly deducted from his monthly salary by his employer. It is alleged that despite liquidation of the entire arrear dues as well as payment of current maintenance, the employer continues to deduct a total sum of ₹34,000/- from his monthly salary.

The present contempt application has, however, been filed alleging violation of the order dated July 1, 2022, passed in CRR 2085 of 2022. According to the petitioner, the learned Judicial

Magistrate, 1st Court at Barasat, has failed to comply with the said order passed in CRR 2085 of 2022.

I am unable to accept the contention advanced by the petitioner. It is evident that the learned Judicial Magistrate, 1st Court at Barasat, duly considered the order of this Court dated July 1, 2022 and, upon such consideration, passed the order referred to hereinabove. It cannot, therefore, be said that the order of this Court has been violated by the learned Magistrate. Even assuming that the learned Magistrate failed to fully appreciate the spirit of the order dated July 1, 2022, or passed an erroneous order, the same would not ipso facto amount to contempt of court.

Likewise, it cannot be contended that Respondent No. 2, the wife of the petitioner, has committed contempt of court by accepting the maintenance amounts.

Accordingly, the present contempt application is devoid of merit and is dismissed.

However, this Court finds that the grievance raised by the petitioner with regard to the continued deduction of a sum of ₹34,000/- from his monthly salary, even after alleged liquidation of the entire

arrear dues, merits consideration. It is pertinent to note that while directing deduction of the aforesaid amount, the Division Bench of this Court had clarified that such deduction would continue unless and until further orders are passed by a competent court.

Accordingly, it is directed that from the month of February 2026, the Chief Works Manager, Eastern Railways, Kanchrapara, shall deduct only ₹9,000/- from the salary of the petitioner, and no further deduction shall be made towards the arrear dues.

In the considered view of this Court, the petitioner ought to approach the learned Judicial Magistrate, 1st Court at Barasat, by filing an appropriate application seeking recall, modification of the order dated October 12, 2018, or other suitable orders under Section 127 of the Code of Criminal Procedure, 1973, or under any other appropriate provision of law.

It is made clear that if such an application is filed within a period of one month from the date of this order, the learned Judicial Magistrate, 1st Court at Barasat, shall dispose of the same in accordance with law, preferably within a period of four months thereafter.

If the learned Magistrate finds that any excess payment has already been made by the petitioner towards maintenance to Respondent No. 2 in terms of the order dated October 12, 2018, the learned Magistrate will be at liberty to pass consequential orders.

Needless to mention, the employer, namely the Chief Works Manager, Eastern Railways, Kanchrapara Workshop, shall comply with the order that may be passed by the learned Magistrate on such application, in accordance with law.

Accordingly, **CRLCP 1 of 2024** is disposed of.

Urgent photostat certified copy of this order, if applied for, be supplied to the learned advocates for the parties on usual undertakings.

(Kausik Chanda, J.)