

M-469 of 2022 (CIS-469 of 2022)

T.R.no.229/10

CNR - WBSP0F0015172022

(Present- Ms. Ishita Acharya, J.O.Code-WB01401)

Order dated: 13.02.2024

Today is fixed for passing order in respect of the petition dated 02.05.2023 filed by the OP.

Both the parties are present by filing hazira through their concerned Ld. Advocates.

Record is taken up for passing order. Perused the materials on record.

It appears that OP has filed the petition on 02.05.2023 stating that the petitioner had married the OP by suppressing the fact about her previous marriage. It has been further stated by the OP that the petitioner previously married one Abdul Mannan Sk on 24.08.2018 and the said marriage was registered before the Qazi and subsequently, she left him on 15.03.2019. Thereafter the said Abdul Mannan initiated one suit under sec. 9 of Restitution of conjugal right being no. 14 of 2019 which is now pending before the Ld. Court of Civil Judge of Haldia, Purba Medinipur. Thus, the petitioner had suppressed such facts and filed the instant case to harass the OP. Stating the aforesaid, OP has prayed for dismissal of the instant case on the ground of maintainability.

Ld. Advocate for the OP has filed photocopies of several documents by way of firisti on 10.07.2023.

On the other hand, although the petitioner has not filed any written objection but the Ld. Advocate for the petitioner raised strong objection against the instant petition and he has also filed photocopies of some documents by way of firisti at the time of hearing.

In order to adjudicate the instant petition, this court has gone through the main application U/S. 125 Cr. P.C. filed by the petitioner wherein it appears that the petitioner has stated that her marriage with the OP was solemnized on 02.11.2019. Further, the petitioner has alleged about the facts regarding physical and mental torture upon her but nowhere in the instant application, petitioner has mentioned about her previous marriage to the said Abdul Mannan Sk. As the petition dated 2.05.2023 has been filed by OP/husband in respect of maintainability of the instant case, therefore, the averments made in the main application under section-125 of CrPC are the matters to be looked into without any doubt or dispute.

Under the circumstances, this court is of the opinion that the said dispute can only be adjudicated by way of trial.

Thus, the petition dated 02.05.2023 is hereby considered and rejected on contest, without any order as to cost.

To 06.04.2024 for filing W/O by OP positively and assets and liabilities by both sides positively.

BC-I to update the Court diary, cause list and CIS.

Stenographer to upload the order in the CIS.

D/C by me,