

14.03.2023

Sl. No. 24

Srimanta

Ct.No. 42

CRR/624/2023

In the matter of : **Soma Pratihar**

Mr. Kollol Mondal,
Mr. Krishan Ray,
Mr. Souvik Das,
Mr. Shamsheer Ansari,
Mr. Ayan Mondal

...for the petitioner.

The petitioner filed an application under Section 125 of the Code of Criminal Procedure praying for maintenance against her husband for herself and her minor daughter in the year 2014. An order of interim maintenance was passed directing the opposite party to pay maintenance allowance at the rate of Rs.4,000/- per month for the petitioner and her minor daughter each, total being Rs.8,000/- per month.

Since the opposite party refused and neglected to pay the interim maintenance the petitioner put the order in execution. During the pendency of the execution case without paying any farthing towards interim maintenance, opposite party filed an application under Section 127 of the Code of Criminal Procedure for modification of the order of interim maintenance. The learned Magistrate vide order dated 22nd February, 2019 stayed the execution proceeding till the disposal of the Misc. Case under Section 127 of the Code of Criminal Procedure. The petitioner being aggrieved moved the Court of the learned Sessions Judge in revision. The revisional Court stayed the operation of the order and subsequently the aforesaid order was set aside by the learned Additional Sessions Judge, Fast Track, 4th Court at Alipore in Criminal Motion No. 153/2019 vide Judgement dated 10th

March, 2022. The petitioner also moved this Court by filing CRR/1939/2021 for expeditious disposal of Misc. Execution case. A Coordinate Bench of this Court disposed of CRR/1939/2021 vide order dated 30TH September, 2021 directing the learned Magistrate in the Court below to proceed with the execution case expeditiously without granting any unnecessary adjournments to either of the parties. On the basis of the said order the petitioner moved the executing Court for passing necessary order of execution. The learned Judicial Magistrate, 5th Court at Alipore vide order dated 9th January, 2023 not only rejected the said application filed by the petitioner but also fixed the application under Section 127 of the Code of Criminal Procedure for hearing and cost of Rs. 200/- was imposed upon the petitioner.

The aforesaid order is under challenge in the instant revision. The revisional application is admitted.

Petitioner is directed to serve notice upon the private opposite party under registered speed post with acknowledgement due and file affidavit-of-service within three weeks from the date of this order. State of West Bengal be served through the learned Public Prosecutor, High Court, Calcutta.

In the meantime, further proceeding in connection with the application under Section 127 of the Code of Criminal Procedure being Case No. MP 20/2018 be stayed for a period of six weeks.

(Bibek Chaudhuri, J.)