
(2022) 04 CAL CK 0093
In the Calcutta High Court
Case No : C.R.R. No. 949 of 2022

Abhishek Mondal

APPELLANT

Vs

State Of West Bengal & Anr.

RESPONDENT

Date of Decision : 28-04-2022

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 125

Citation : (2022) 04 CAL CK 0093

Hon'ble Judges : Jay Sengupta, J

Bench : Single Bench

Advocate : Debapratim Guha, Rajdeep Bhattacharya, Siddhartha Sarkar, M. Mandal

Final Decision : Disposed Of

Judgement

Jay Sengupta, J

This is an application challenging an order dated 7.03.2022 passed by the learned Judicial Magistrate, 5th Court, Barrackpore, North 24 Parganas in M Case No. 480 of 2018.

Learned counsel for the petitioner submits as follows. The opposite party No.2 filed an application under Section 125 of the Code claiming maintenance allowance from the petitioner. The petitioner had filed an application for non-maintainability on the ground that the purported marriage between the two took place when he was a minor. The same was dismissed. The order was challenged before the learned Sessions Court. The revision was dismissed with a cost of Rs. 5,000/-, which was to be paid within 15 days. But, the petitioner could not arrange the said sum and could not pay the same in time. On 07.03.2022 he made a prayer before the learned trial court for permission to submit the said cost of Rs. 5,000/- and to allow him to participate in the proceeding. The Learned Magistrate did not allow the petitioner to put in the cost and fixed a date for ex party hearing of the application of interim maintenance. The proceeding is

fixed before the learned trial court today, i.e. on 28.04.2022.

Learned counsel appearing on behalf of the private opposite party submits as follows. Since the revisional application did not have any merit, the same was dismissed by the learned Sessions Court with a cost of Rs. 5,000/- that was to be deposited within 15 days. Thereafter the petitioner had sufficient opportunity to put in the cost, but he did not do so. On 07.03.2022 he made application to pay the cost. The main application under Section 125 of the Code had been filed in the year 2018 and till date even the application of the petitioner for interim maintenance could not be decided.

I have heard the submissions of the learned counsels for the petitioner and the private opposite party and have perused the revision petition.

It is unfortunate that although the application for maintenance allowance was filed by the opposite party in 2018, till date even the question of interim maintenance could not be decided.

However, if the petitioner is willing to put into the cost imposed by the learned Sessions Judge, he may be permitted to do so and participate in the proceeding so that his right of hearing is not impaired.

In view of the above and in the interest of justice, I request the learned trial court to allow the petitioner to deposit the cost within seven days from this date and fix and/or prepone the date in the month of May, 2022 and decide the question of interim maintenance payable to the opposite party on the said date after hearing the parties.

The petitioner shall not pray for any adjournment on the said date fixed for hearing.

With these observations, the revisional application is disposed of.

Urgent photostat certified copy of this order may be supplied to the parties expeditiously, if applied for.