

IN THE COURT OF THE SESSIONS JUDGE ::::::::::: GOALPARA

Criminal Revision No. 11/19

Present:- Sri T.K.Bhattacharjee., A.J.S
Sessions Judge, Goalpara.

Sawkat Ali Revisionist

-Versus-

Anjura Begum Opp. Party.

Appearance :-

For the revisionist :- Mr. A. A. Ahmed, learned Advocate.

For the respondent :- Mr. J. Das, learned Advocate.

Date of Judgment :- **02.03.2020.**

J U D G M E N T

1. This revision has been preferred u/s 397/399 of the Cr.P.C by the revisionist Sawkat Ali against the order dated 26.03.2019 passed by learned Munsiff No. 1 -cum- Judicial Magistrate 1st Class, Goalpara in connection with MCR Case No. 67/2015 u/s 125 of the Cr.P.C vide which the learned court below directed the Revisionist to pay the arrear amount of maintenance to the Opposite Party/petitioner at the earliest.

2. The brief facts of the case is that the non-revisionist/Opp. Party, namely Anjura Begum filed an application before the learned Chief Judicial Magistrate, Goalpara as 1st Party u/s 125 of the Cr.P.C. with a prayer for granting maintenance allowance to her and her minor children and thereafter, MCR Case No.67/15 was registered and subsequently, the said proceeding proceeded in the learned court below which was pleased to direct the revisionist, namely Saukat Ali to pay interim maintenance allowance @ Rs.5,000/- only towards interim maintenance for maintenance of the petitioner and her minor

son until the maintenance petition is disposed of and thereafter, on 26.3.2019, the petitioner filed an application before the learned court below with a prayer for directing the OPP. Party to pay the arrear amount of maintenance which was allowed by the learned court below and accordingly, the revisionist was directed to pay the arrear amount of maintenance to the petitioner at the earliest.

3. Being highly aggrieved and dissatisfied with the aforesaid order dated 26.3.2019, the present revision has been preferred on the grounds set-forth in the memo of the revision petition. However, during the hearing of the instant revision petition, the learned counsel for the revisionist remained absent without any steps and as such, the learned counsel for the Opp. Party was only heard in this context. I have also perused the LCR that had been received in connection with this revision petition in order to determine the following.

4. **Point for determination:-** - Whether the impugned order dated 26.3.2019 passed by the learned court below in MCR No.67/15 suffers from any impropriety, illegality, incorrectness etc and is sustainable in law or requires any interference of this court?

DISCUSSION, DECISION AND REASONS

5. On perusal of the entire materials available before me and also the impugned order dated 26.3.2019, it is found that the revisionist was directed to pay Rs.5,000/- only to his wife as interim maintenance for herself and her minor son until the maintenance petition is disposed of vide order dated 15.10.2015 and thereafter, on 26.3.2019, a petition was filed stating that an arrear of Rs.1,81,000/- is due to be paid by the revisionist for which the revisionist was directed to pay all the arrear amount of maintenance at the earliest. On the other

hand, the revisionist has stated in the revision petition that the

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impugned order requires to be set aside as the claim for arrear maintenance is not maintainable and further, according to the revisionist, a petition u/s 127 of the Cr.P.C. is pending in the learned lower court vide M.C.R No.31/17 and as such, without final disposal of the said case u/s 127 of the Cr.P.C, the order of interim maintenance of arrear dues is not maintainable. From the order dated 15.10.2015, it is found that the learned court below had directed that interim maintenance allowance of Rs.5,000/- only be paid to the petitioner for herself and her minor son until the maintenance petition is disposed of without specifying the interval on which such payment should be made but nevertheless, Section 125 of the Cr.P.C is a provision for granting a monthly allowance for maintenance or for interim maintenance of the wife, child, parents etc. and further, the said order dated 15.10.2015 was never challenged in any manner within the prescribed time and the revisionist also made some payments to his wife and as the said order was not set aside, altered, varied or modified etc. but is still in force, the revisionist is liable to pay the dues to be calculated in terms of the said order and therefore, the order dated 26.3.2019 vide which the revisionist was directed to pay the arrear amount of maintenance to the petitioner at the earliest is apparently without any irregularity and therefore, this revision does not project sufficient merit and accordingly, it is dismissed. However, no costs are imposed.

Given under my hand and seal of this court on this 2nd day of March, 2020.

(T.K.Bhattacharjee)
Sessions Judge, Goalpara

Dictated and corrected by me:

Sessions Judge, Goalpara.