

08.07.2021

Item No.17
Ct.No.34
dc.

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION**

C.R.R. 1985 of 2014
(Via Video Conference)

Doli Ghosh
versus
Amaresh Ghosh

In Re: An Application under Section 401 read with Section 482 of the Code of Criminal Procedure, 1973.

None appears for the parties.

The petitioner being the legally married wife of the opposite party preferred an application for interim relief under Section 23 of the Protection of Women from Domestic Violence Act, 2005. The learned Magistrate on assessment of the preliminary materials placed before him and after observing that the opposite party husband happened to be a permanent employee of I.O.C.L. granted interim relief of Rs.10,000/- per month to the petitioner/wife till disposal of the case. Being aggrieved by such order, the husband/opposite party preferred an appeal before the learned Sessions Judge, 24-Parganas (South). The said appeal was thereafter transferred to the learned Additional District and Sessions Judge, 18th Court, Alipore for disposal and by an order dated 23.04.2014, the learned Sessions Judge was pleased to uphold the conclusion arrived at by the learned Magistrate, but was pleased to reduce the quantum of monetary relief from Rs.10,000/- per month to Rs.8,000/- per month. The learned Sessions Judge, *inter alia*, held as follows :

“..... However, since this appellant prefer this appeal before this Court and as the proceedings of this case is yet to be completed and in such a circumstances having consider that fact and also after considering the urgent need of the respondent/wife this Court finds that if a sum of Rs.8,000/- per month be awarded as maintenance for her livelihood that would be just and equitable and will not be hardship to the appellant/husband to pay the same.”

I find that the reason which was assigned by the learned appellate court is not cogent and not based either on factual or legal foundation. Accordingly, the judgment and order dated 23.04.2014 passed by the learned Additional District and Sessions Judge, 18th Court, Alipore in Criminal Appeal No. 36/13 is hereby set aside.

Accordingly, CRR 1985 of 2014 is allowed.

Liberty is granted to the petitioner to recover the arrears by taking out proper application before the learned Magistrate.

Interim order, if any, is hereby vacated.

All pending applications, if any, are consequently disposed of.

Department is directed to communicate this order to the court below within seven days.

All parties shall act on the server copy of this order duly downloaded from the official *website* of this Court.

(Tirthankar Ghosh, J.)