

11.01.2021.

ap
23

C.R.R. 3326 of 2018

Arindam Biswas

Vs.

The State of West Bengal & Anr.

Mr. Saurav Chatterjee

Mr. Aniruddha Bhattacharyya

... For the petitioner.

Affidavit-of-service be kept with the record.

It appears from the affidavit-of-service that notice of the instant criminal revision was duly served upon respondent no. 2 but she has failed to appear before this Court to contest the instant revision. None appears on behalf of the opposite party no. 1.

The application is taken up for hearing.

The instant criminal revision is filed challenging legality, validity and propriety of the order dated 5th October, 2018 passed by the learned Additional Sessions Judge, 3rd Fast Track Court, Barasat, North 24 Parganas in Criminal Appeal No. 19 of 2018.

By passing the order impugned the learned Additional Sessions Judge set aside the order passed by the learned Judicial Magistrate, 2nd Court at Barasat upon an application filed by opposite party no. 2 under Section 17/18/19/20/22 of the Protection of Women from Domestic Violence Act, 2005, directing the petitioner to pay interim maintenance allowance to the tune of Rs. 4,000/- per month.

The learned Additional Sessions Judge in appeal enhanced the interim monetary relief payable by the petitioner to the opposite party no. 2 from Rs. 4,000/- to Rs. 22,000/- per month and also directed to pay such monetary relief in arrear amounting to Rs. 2,50,000/-.

The grievance of the petitioner is ventilated in the written objection filed by him in Misc. Case No. 264 of 2016. With the said written objection the petitioner has filed pay slip in the months of May, June and July, 2017 showing his monthly income from his employment. From the said pay slip it is ascertained that his gross income Rs. 1,42,919/- and after deduction of income tax, provident fund and professional tax, he earned approximately a sum of Rs.1,10,180/- per month.

It is submitted by Mr. Chatterjee, learned advocate for the petitioner that the learned Additional Sessions Judge in Criminal Appeal No. 19 of 2018 practically did not consider the amount spent by the petitioner while staying at Hyderabad on account of his employment. The Court also did not consider that the petitioner has his old parents and he is also under obligation to look after them. According to Mr. Chatterjee, if the written objection filed by the petitioner in Misc. Case No. 264 of 2016 was properly appreciated by the Court of Appeal that impugned order might not have been passed.

The parties have no issue. The opposite party no. 2 is, of course, entitled to monetary relief according to her social status and economic background.

Considering the present day market price of essential items and requirement of a lady to run her day to day life, I am of the view that the sum of monetary relief fixed by the learned Court of Appeal is at the higher side because of the fact that the learned judge failed to consider the expenditure of the petitioner to maintain himself at Hyderabad as well as his parental obligation.

For the reasons stated above, I am of the view that the presently need of the opposite party no. 2 will be squarely satisfied if the petitioner is directed to pay a sum of Rs. 15,000/- per month from the day of the order, i.e. 29th March, 2018 passed by the learned Judicial Magistrate in Misc. Case No. 264 of 2016.

The petitioner is directed to make the current payment from the month of February 2021 within 15 of each succeeding month. So far as the arrear payment is concerned, the petitioner is at liberty to make such payment in ten equal monthly instalments.

The instant criminal revision is thus disposed of. The order passed by the learned Additional Sessions Judge, 3rd Fast Track Court, Barasat, North 24 Parganas is accordingly set aside and modified.

Above observation made in this order by this Court is absolutely limited for the purpose of disposal of the instant criminal revision arising out of interim payment of monetary relief and such observation will not have any binding effect

during the hearing of the proceeding under Protection of Women from Domestic Violence Act, 2005.

There shall, however, be no order as to costs.

(Bibek Chaudhuri, J.)