

In the matter of : Rituparna Das

.... Petitioner

Mr. Kiron C Saha,
Mr. Pratip Mukherjee for the petitioner

Mr. Ayan Bhattacharjee,
Mr. Sharequl Haque,
Mr. Aditya Ratan Tiwary,
Mr. Subhajit Maura for O.P. No. 2

The instant revision is directed against an order dated 16th January, 2020 passed by the learned Sessions Judge, Howrah in criminal appeal No. 7 of 2019.

Be it mentioned here that upon an application under Section 23 of the Protection of Women from Domestic Violence Act, 2005 (hereafter described as the said Act) the learned Magistrate passed an order on 27th December, 2018 directing the respondent to pay interim monetary relief at the rate of Rs. 13,000/- per month to the petitioner and Rs. 7,000/- per month for her minor child, total being Rs. 20,000/-.

The learned Sessions Judge in criminal appeal no. 7 of 2019 passed an order modify the interim monetary relief to the extend of Rs. 7,000/- for the petitioner and Rs. 3, 000/- for the child , total being Rs. 10,000/- and Rs. 5,000/- as EMI of all the arrears till the disposal of the Misc. case No. 219 of 2018.

Learned advocate for the petitioner has vehemently argued that the opposite party stated before the learned Court of appeal that his monthly income is Rs. 50,000/- from his job with TCS. However, in the trial Court he filed an affidavit showing his assets and liabilities where he stated his monthly income to be of Rs. 1,08,000 /- per month from the said job. Thus the respondent has committed perjury on the Court and on the basis of the

said false evidence the Court of appeal modified the order.

Learned advocate for the respondent, on the other hand submits that the order passed by the learned Sessions Judge, Howrah may be set aside and that of the learned Judicial Magistrate, 7th Court at Howrah in Misc. Case No. 219 of 2018 be made absolute till the disposal of the application under Section 12 of the said Act.

Learned advocate for the petitioner on the other hand submits that such order may be passed subject to a condition that the petitioner may be given an opportunity to make a suitable prayer for enhancement of monetary relief in view of specific assertion made by the opposite party /respondent in his affidavit of assets and liabilities.

Considering the submission made by the learned counsels for both the parties the instant criminal revision is disposed of with following order :

1. The interim monetary relief which was granted by the learned Judicial Magistrate, 7th Court at Howrah vide an order dated 27th December, 2018 is made absolute till the disposal of the application under Section 12 of the said Act.;
2. The petitioner is given liberty to amend the prayer for monetary relief in her application under Section 12 of the said Act.;
3. The opposite party is at liberty to file affidavit-in-opposition, if any, against such prayer if at all be made by the petitioner.

The learned Judicial Magistrate is directed to dispose of the application under Section 12 of the said Act expeditiously and preferably within six months from the date of communication of this order.

The instant revision is accordingly allowed and the

judgment and order passed in criminal appeal no. 7 of 2019 by the learned Sessions Judge, Howrah is set aside.

The opposite party shall pay arrear maintenance in monthly installment by depositing /pay such amount as fixed by the learned Judicial Magistrate, 7th Court, Howrah taking into account the quantum of monthly monetary relief at the rate of Rs. 20,000/- per month.

Parties are directed to act on the server copy of this order.

(Bibek Chaudhuri, J.)