

Form J(1)

**IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction
Appellate Side**

**Present :
The Hon'ble Justice Bibek Chaudhuri**

**CRR 282 of 2022
With
CRAN 2 of 2022**

**Sana Zahid
Vs.
The State of West Bengal & Anr.**

Mr. Ayan Bhattacharya
Ms. Shaila Afrin
Ms. Rafat Jahan
..for the petitioner

Mr. Sandipan Ganguly, Sr. Adv.
Mr. Arkadeb Bhattacharya
Mr. Rajesh Upadhyay
..for the opposite party No.2

Ms. Manisha Sharma
...for the State

Item No. 05.

Heard & Judgment on: 12.12.2022

Bibek Chaudhuri, J.

Ex parte interim order of stay dated 16th December, 2021 passed by the learned Additional District Judge, 1st Court at Sealdah, South 24 Parganas in connection with Criminal Appeal No. 13 of 2021 arising out of an order dated 1st December, 2021 upon an appeal under Section 23 of the Protection of Women from Domestic Violence Act, 2005 staying the operation of the order passed by the learned Judicial Magistrate, 3rd Court at Sealdah in connection with D.V. Case No. 36 of 2019 directing the opposite party No.2/husband to pay monetary allowance at the rate of Rs.15,000/- per month in favour of the petitioner.

Grievance of the petitioner is that the learned Judge in the Appellate Court while admitting the appeal stayed the order passed by the learned Judicial Magistrate, 3rd Court at Sealdah to pay monetary allowance at the rate of Rs.12,000/- per month without considering the case, need and claim of the petitioner.

At the time of hearing it is submitted by Mr. Arkadeb Bhattacharya, learned junior to Mr. Sandipan Ganguly, learned senior counsel on instruction that the learned Lower Appellate Court may be directed to dispose of the appeal pending before it

expeditiously. With such direction the instant revision may be disposed of.

Mr. Bhattacharya, learned advocate on behalf of the petitioner submits that the petitioner has no objection if the appeal is directed to be disposed of at an early date but the opposite party may be directed to comply with the order passed by the learned Magistrate in D.V. Case No.36 of 2019.

Mr. Ganguly, learned senior counsel has opposed such prayer made by the learned advocate for the petitioner.

The impugned order passed by the learned Judicial Magistrate, 3rd Court at Sealdah is under challenge before the Lower Appellate Court. In the said order the learned Magistrate granted monetary relief in favour of the petitioner at the rate of Rs.15,000/- per month. It is submitted by Mr. Ganguly that the issue involved in the appeal in the trial Court is as to whether the quantum of monetary relief is just, proper and sufficient and considering the need of the petitioner qua the financial position and status of the opposite party.

Be that as it may, since the Protection of Women from Domestic Violence Act, 2005 is of socially beneficial registration and this Court is inclined to get the appeal pending before the

Lower Appellate Court disposed of at an early date. This Court is not going to the question as to whether Rs.15,000/- or Rs.12,000/- towards monetary relief is just, proper and sufficient for the petitioner. Therefore, without going into the merit of the quantum of monetary allowance and the issues that are required to be disposed of by the Appellate Court for fixing the monetary allowance this Court is of the view that pending disposal of the appeal the Magistrate's order should be complied with.

The learned Lower Appellate Court is requested to dispose of the instant appeal within 31st January, 2023 without giving any adjournment to anybody at the time of hearing of the appeal.

In the meantime, the opposite party shall go on paying monetary allowance at the rate of Rs.15,000/- per month.

The instant revision along with the connected application is, thus, disposed of on contest.

(Bibek Chaudhuri, J.)