

Form No. J(2)

IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION

Present:

The Hon'ble Justice Jay Sengupta

C.R.R. 420 of 2022

Syed Mahzar Alam

-vs-

Shagufta Ismail & Anr.

For the Petitioner : Mr. Sandip Kumar Bhattacharyya
Mr. Abdul Murshid

Heard on : 16.02.2022

Judgment on : 16.02.2022

Jay Sengupta, J.:

This is an application challenging an order dated 08.04.2021 passed by the learned Sessions Judge in Criminal Appeal No. 22 of 2021 under Section 29 of the Protection of Women from Domestic Violence Act.

Learned counsel for the petitioner submits as follows. The petitioner is the former husband of the opposite party no. 1. After

the disputes arose between the private parties, the petitioner gave talaq to the private opposite party. The minor child is in the custody of the former wife. The wife filed an application under the provisions of the Protection of Women from Domestic Violence Act in 2019. As an interim measure, the learned Magistrate directed that the petitioner is to pay a sum of Rs. 15,000/- per month to the wife and the minor son. The private opposite party had also preferred an appeal against the purported insufficiency of the interim monetary relief award, which is still pending. The present petitioner preferred an appeal against the order passed by the learned Magistrate being Criminal Appeal No. 22 of 2021. By an order dated 08.04.2021, the learned appellate court was pleased to admit the criminal appeal and stayed the impugned order subject to the payment of Rs. 10,000/- per month by the petitioner to the respondent as interim monetary relief for herself and her minor son. The petitioner submits that he is unable to pay even Rs. 10,000/- per month as maintenance to the wife and the child. Presently, the petitioner is unemployed and is also suffering from mental illness. In view of the same, the amount of interim relief granted by the learned appellate court may be stayed.

I have heard the submissions of the learned counsel for the

petitioner and have perused the revision petition.

From the order passed by the learned Magistrate, it appears that the opposite party/wife had claimed that while she was earning very little as a teacher, the petitioner was a physiotherapist by profession and was earning Rs. 80,000/- to 1,00,000/- per month. In fact, after the problems arose, admittedly the husband gave talaq to the wife.

The wife also lodged an FIR, inter alia, under Section 498A of the Penal Code for the alleged cruelty inflicted upon her.

The petitioner has already taken up relevant grounds in an appeal before the learned appellate court. The appeal is still pending.

In view of the above, it will not be proper to interfere with the impugned order.

In the facts and circumstances of the case, I do not think that the sum of Rs. 10,000/- per month awarded as interim monetary relief for the wife and child is at all excessive.

In view of the above, I do not find any merit of this application. The same is, accordingly, dismissed.

Therefore, there shall be no order as to costs.

Learned Appellate Court is requested to decide the appeal as

expeditiously as possible.

Urgent photostat certified copy of this order may be supplied to the parties expeditiously, if applied for.

(Jay Sengupta, J.)

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