

10.03.2022

Item No.25
Ct.No.34
dc.

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

C.R.R. 978 of 2020
(Via Video Conference)

**Azfar Hossain alias Milan
versus
Rehana Parvin & Anr.**

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

Ms. Minoti Gomes,
Md. Hafiz Ali,
Mr. Partha Sarathi Das ... For the Petitioner.

Mr. Manas Kumar Das,
Mr. Siddhartha Sarkar ... For the Opposite Party No. 1.

It appears that an inadvertent typographical error has crept into the order dated 18.02.2022 passed in this revision.

At the heading of the order sheet, instead of "CRR 978 of 2017" it should actually be "CRR 978 of 2020".

Department shall make necessary correction in the said order.

Other portions of the order dated 18.02.2022 shall remain the same.

Supplementary affidavit filed on behalf of the petitioner in Court today be kept on record.

Ms. Gomes, learned advocate appearing for the petitioner draws the attention of this Court to the order dated 08.08.2018 in Misc. Case No. 235 of 2015 wherein the learned Judicial Magistrate, Kandi was pleased to award a sum of Rs.5000/- per month as maintenance for minor Marzina Khatoon under Section 20 of Protection of Women

from Domestic Violence Act. Learned advocate also draws the attention of this Court to the order dated 11.01.2016 passed by learned Additional Chief Judicial Magistrate, Kandi, Murshidabad in Misc. Case No. 249 of 2015 wherefrom it reflects that in the proceedings under Section 125 of the Code of Criminal Procedure, a direction was passed for paying a sum of Rs.10000/- per month to the child from the date of filing of the said application. Learned advocate for the petitioner submits that the petitioner is being compelled to make payment in both the proceedings under Section 125 of the Code of Criminal Procedure as well as under the provisions of the Protection of Women from Domestic Violence Act, 2005.

Learned advocate appearing for the wife/opposite party no.1 submits that the order of maintenance passed by the learned Additional Chief Judicial Magistrate, Kandi so far as a sum of Rs.10000/- per month to the wife and a sum of Rs.10000/- per month to the minor daughter is concerned, the same is being paid and the said order is being complied with.

In view of the materials available in the records and the established principles of law, I find force in the submission of the learned advocate appearing for the petitioner, inasmuch as that under both the Acts for maintenance, an individual cannot derive the benefits of maintenance which has been awarded under the Protection of Women from Domestic

Violence Act, 2005. This would be deemed to be adjusted with the maintenance awarded in Misc. Case No. 249 of 2015.

The present petitioner would go on paying maintenance only in Misc. Case No. 249 of 2015 and inform the same by producing the receipts to the jurisdictional court presiding under the provisions of the Protection of Women from Domestic Violence Act, 2005.

If an application is taken out by the petitioner reflecting before the court that any extra amount has been paid in the proceedings under the provisions of the Protection of Women from Domestic Violence Act, 2005 being Misc. Case No. 235 of 2015, the learned Additional Chief Judicial Magistrate, Kandi, Murshidabad, who is in seisin of the proceedings under Section 125 of the Code of Criminal Procedure, would pass a direction for adjusting the same.

So far as the other reliefs under the Protection of Women from Domestic Violence Act, 2005 relating to compensation is concerned, the same is not interfered with by this Court.

With the aforesaid observations, the revisional application being CRR 978 of 2020 is partly allowed.

Interim order, if any, is hereby vacated.

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

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

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Tirthankar Ghosh, J.)