

Form J(1)

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

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

CRR 1220 of 2022

**Suman Chatterjee & Ors.
Vs.
State of West Bengal & Anr.**

**For the petitioner : Mr. Sourav Chatterjee, Adv.,
Mr. Kaustav Bagchi, Adv.,
Mr. Debayan Ghosh, Adv.,
Ms. Priti Kar, Adv.**

**For the opposite
Party no. 2 : Mr. Kaushik Gupta, Adv.,
Ms. Nipa Sarkar, Adv.**

Judgement on : 08.09.2022.

Bibek Chaudhuri, J.

The opposite party no. 2 is the married wife of the petitioner no. 1. The opposite party no. 2 filed an application before the Learned jurisdictional Magistrate under Section 12 read with Sections 18 and 23 of the Protection of Women from Domestic Violence Act (hereafter called as the said Act) praying for monetary relief and right of accommodation in the shared household. By an order dated 11th November, 2019 the Learned Judicial Magistrate, 3rd Court at

Serampore directed the petitioner to pay interim monetary allowance at the rate of Rs.4,500/- per month in favour of the opposite party. The Learned Magistrate also directed the petitioner that the opposite party would be temporarily provided an access to the shared household situated at 78(43), S. N. Banerjee Road, P.O. Barackpore, P.S. Titagarh, North 24-Parganas till the disposal of Misc. Case No. 1888/2018 registered on the basis of application filed by the opposite party no. 2 under the said Act before the Court of the Learned Magistrate.

The present petitioner preferred an appeal assailing the order dated 11th November, 2019 so far as it relates to the permission for accommodation in shared household, which was registered as Criminal Appeal No. 20/2021. The Learned Additional Sessions Judge, 2nd Court at Serampore disposed of the said appeal by a judgment delivered on 4th April, 2022 dismissing the appeal on contest and affirming the judgment dated 11th November, 2019 passed by the Learned Judicial Magistrate, 3rd Court at Serampore.

The husband/opposite party has assailed the concurrent finding made in Criminal Misc. Case No. 1888/2018 and Criminal Appeal No. 20/2021 before this Court by filing the instant revision.

In course of argument it is submitted by Mr. Sourav Chatterjee, Learned Advocate for the petitioners that the shared household as mentioned in the order dated 11th November, 2019 is a joint ancestral accommodation of the family members of the petitioner where except the petitioner and the opposite party no. 2 other members of the family used to reside. As the said ancestral house was old and dilapidated, the present owner of the said house executed a development agreement with a third party for construction of a new

premises over the said plot of land and the ancestral house has already been demolished.

It is contended by Mr. Gupta, Learned Advocate for the opposite party no. 2 that the petitioners filed the instant revision on 11th April, 2022. The development agreement of premises no. 78(43) S. N. Banerjee Road was entered into on 11th January, 2022 only to deprive the opposite party no. 2 from enjoying her existing accommodation in the shared household.

Be that as it may, this Court is actually concerned about present accommodation of the opposite party no. 2 who is now staying at her paternal home with her minor son. Under PWDV Act the opposite party no. 2/wife has the right of accommodation in the shared household but the fact remains that the shared household is no more under existence. Therefore, the instant revision is disposed of directing the Learned Judicial Magistrate, 3rd Court at Serampore, Hooghly to take note of the subsequent fact and provide monetary relief in lieu of shared household considering the extent of accommodation required for the opposite party no. 2 taking into account the status of the parties and present day rate of rent of such accommodation. The Learned Judicial Magistrate is further requested to dispose of the application filed by the opposite party no. 2 so far as it relates to the prayer for accommodation in shared household within one week after Vacation. Accordingly, the part of the order dated 11th November, 2019 so far as it directed the petitioner to provide an access to the shared household situated at 78(43), S. N. Banerjee Road, P.O. Barrackpore, P. S. Titagarh, North 24-Parganas is set aside.

It is made clear that the order relating to monetary relief is not interfered by this Court and the petitioner will comply with the directions made with regard to monetary relief vide order dated 11th November, 2019 by the Learned Magistrate till the disposal of Misc. Case No. 1888/2018.

(Bibek Chaudhuri, J.)

Srimanta, A.R.(Ct.)
Item No. 07.