

Form J(2)

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

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

**CRR 1977 of 2022**

**Debabrata Debnath  
Vs.  
State of West Bengal & Anr.**

**For the petitioners : Mr. Shirsho Dasgupta, Adv.**

**For the State : Mr. Suman De, Adv.,  
Mr. Sujata Das, Adv.**

**Heard &  
Judgement on : 23.06.2022.**

**Bibek Chaudhuri, J.**

Being aggrieved by an order passed in Criminal Appeal No. 17/2017 filed by the petitioner challenging quantum of interim monetary relief at the rate of Rs.10,000/- per month, the petitioner has approached this Court in the jurisdiction of criminal revision. It appears from the record that on 18<sup>th</sup> March, 2017 the aggrieved person/opposite party no. 2 filed an application under Section 12 read with Section 23 of the Protection of Women from Domestic Violence Act, 2005 (hereafter described as the said Act) praying for several

reliefs. On 8<sup>th</sup> November, 2017, the Learned Judicial Magistrate, 1<sup>st</sup> Additional Court at Basirhat granted interim monetary relief in favour of the opposite party no. 2 at the rate of Rs.10,000/- per month. The said order was challenged by the appellant in Criminal Appeal No. 17 of 2017. At the time of admission of appeal, the Learned Appellate Court directed the petitioner to pay Rs.5,000/- per month towards interim monetary relief to the opposite party no. 2.

During the pendency of the said appeal, the dispute between the parties were attempted to be amicably settled. As per the settlement the petitioner and opposite party stayed together during the period between July, 2019 to November, 2020. Subsequently, on 24<sup>th</sup> November, 2020, the opposite party no. 2 filed a written complaint against the petitioner and his family members under Section 498A and other penal provisions contained in Indian Penal Code. Vide order dated 26<sup>th</sup> April, 2022 the aforesaid criminal appeal was dismissed on contest affirming the order passed by the Trial Court on 8<sup>th</sup> November, 2017.

It is submitted by Mr. Satadru Lahiri, Learned Advocate for the petitioner that the petitioner works as a 'Trackman' in Indian Railways. During 2017-2019, his take home salary was Rs.21,000/- The Learned Judge in the Appellate Court failed to consider that the

petitioner would not be able to discharge his other liabilities if he had to pay almost 50 per cent of salary towards monetary relief to the opposite party no. 2. Secondly, the Learned Judge in the Appellate Court also did not consider that from July, 2019 to November, 2020 the petitioner and the opposite party no. 2 stayed together as husband and wife and question of payment of monetary relief under Section 23 does not arise for the said interregnum period. Without considering the contention of the petitioner the Learned Judge in the Appellate Court passed order directing the petitioner to pay interim monetary relief from the date of filing of the application.

Considering the submission made by the Learned Advocate for the petitioner this Court is of the view that the instant application can be disposed of here and now taking assistance of the Learned Advocate for the State. Therefore, Mr. Suman De is requested to assist this Court as the Learned Public Prosecutor-in-Charge. Appointment of Mr. De be regularized by the Legal Remembrancer, High Court, Calcutta.

Having heard the Learned Counsels for the parties and on perusal of the documents filed by the petitioner along with the instant revision, it is ascertained that during 2017 to 2019 the petitioner's take home salary was Rs.21,000/-. At the time of disposal of the

criminal appeal the petitioner used to earn Rs.30,000/- per month from his salary. The Learned Judge in the Appellate Court did not consider the quantum of salary of the petitioner. He also did not consider that opposite party no. 2 is not entitled to get any interim monetary relief from July 2019 to November, 2020. In view of such circumstances the order passed by the Learned Judicial Magistrate, 1<sup>st</sup> Additional Court at Basirhat is modified in the following manner.

The petitioner is directed to pay monetary relief at the rate of Rs.6,000/- per month to the opposite party no. 2 from the month of December, 2017 till June, 2019. Thereafter, the petitioner is bound to pay interim monetary relief to the opposite party no. 2 at the rate of Rs.10,000/- from December, 2020 till date.

The petitioner is also directed to pay current interim monetary relief at the rate of Rs.10,000/- per month within 10<sup>th</sup> of each succeeding month. The arrear amount shall be squared up by making payment of Rs.5,000/- per month along with the current interim relief.

The instant criminal revision is, thus, **disposed of**.

**(Bibek Chaudhuri, J.)**

**Srimanta, A.R.(Ct.)**