

Form J(1)

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

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

CRR 2286 of 2022

**Babita Kochar nee Narang
Vs.
The State of West Bengal & Anr.**

**For the petitioner : Mr. Sanjoy Bose, Adv.,
Mr. Priyankar Basu Mallick, Adv.**

For the State : Ms. Amita Gaur, Adv.

Judgement on : 25.07.2022.

Bibek Chaudhuri, J.

On perusal of the averment made in the instant criminal revision and having heard the Learned Advocate for the petitioner this Court is of the view that the instant revision can be disposed of here and now even without the direction of issuing notice upon the opposite party to appear and contest the instant revision. This Court is of the view that the instant revision can be disposed of with the assistance of the Learned Public Prosecutor-in-Charge, High Court, Calcutta. Therefore, Ms. Amita Gaur, Learned Advocate is requested to represent the State of West Bengal in the instant matter.

Needless to mention that the provisions of maintenance, monetary relief, alimony *pendente lite* and permanent alimony

are introduced in the Statute to provide monetary assistance to the persons who are in need to be maintained by the persons who are legally bound to maintain them in order to ameliorate financial distress and hardship of the persons in need to be maintained.

However, it is regularly noticed that the persons who are legally bound to maintain their relations who are in destitute evade payment of such monetary relief with the help of technicalities of procedural law.

Keeping in mind the above stated prelude, let me narrate the factual aspect of the instant case in gist. The petitioner being the legally married wife of the opposite party no. 2 filed an application under Section 12 read with Section 23 of the Protection of Women from Domestic Violence Act in the Court of the Learned Additional Chief Judicial Magistrate at Alipore. The said application was registered as Case No. AC 317/2016. The Learned Magistrate passed an order on 27th November, 2017 directing the opposite party no. 2 to provide monetary relief to the petitioner by the opposite party/husband at a monthly rate of Rs.30,000/-. The opposite party preferred an appeal before the Learned Sessions Judge under Section 29 of the PWDV Act. The said appeal bearing no. 7/2018 was dismissed on contest by the Learned Additional Sessions Judge 3rd Fast Track Court at Alipore on 11th June, 2018. The opposite party challenged the legality and validity of the said order before this Court in CRR No. 2193/2018. The said revisional application is still pending and no order of stay of any proceeding in the Lower Court was stayed by this Court. As the opposite party/husband did not

take any step in the hearing of the instant revision, a Coordinate Bench passed an order directing the matter to go out of list. It was specifically made clear that pendency of the revisional application would not preclude the Trial Court from proceeding with the execution case being M. Execution Case No. 2/2018. In the instant revision, by filing a supplementary affidavit it is stated by the petitioner that the opposite party/husband has hopelessly failed to carry out the order passed by the competent Court in relation to monetary relief. As on this date a sum of Rs.13,66,000/- is lying due to the opposite party, the petitioner filed as many as five execution cases being M. Execution Case No. 2/2018, M. Execution Case No. 59/2019, M. Execution Case No. 25/2020, M. Execution Case No. 209/2021 and M. Execution Case No. 225/2021 for realization of arrear monetary relief against the opposite party. All the execution cases are kept pending by the Learned Magistrate and taking advantage of pendency of the execution case the opposite party is avoiding paying arrear as well as current monetary relief. According to the whims of the opposite party, he paid some meager amount occasionally in the executing Court and as per the order of the executing Court the amount was paid to the petitioner.

It is unfortunate to note that the petitioner has approached this Court to get her dues towards monetary relief which she is legally entitled to get.

Under such circumstances, the instant criminal revision is disposed of directing the executing Court to take up all pending

execution cases between the parties on a single date and pass necessary order for realization of monetary relief.

The executing Court is also directed to dispose of all execution cases by passing final order within four months from the date of communication of this order.

The petitioner is at liberty to communicate this order pending server copy of the same to the executing Court for information and compliance.

With the above directions, the instant revision is **disposed of.**

(Bibek Chaudhuri, J.)

Srimanta, A.R.(Ct.)
Item No. 21.