

16.08. 2022
item No.23
n.b.
ct. no. 42

CRR 2320 of 2022

**Paramananda Roy & Ors.
Vs.
Anushree Roy**

Ms. Jeenia Rudra,
Ms. Thaneshware Kumari
.....for the Petitioners

The petitioner is the opposite party in Misc. Case No.58 of 2021 being a proceeding under Section 12 read with Section 23 of the Protection of Women from Domestic Violence Act. After the said case being filed, the opposite party moved an application under Section 23 of the Protection of Women from Domestic Violence Act for ex parte hearing. The Learned Judicial Magistrate, 2nd Court at Durgapur passed an order directing the present petitioner/husband to pay monthly monetary relief @10,000/- for the petitioner and Rs.5,000/- each for their two children in addition to a sum of Rs.15,000/- towards EMI of Flat which was purchased by the present petitioner/husband, where the opposite party along with her children have residing.

It is submitted by the Learned advocate for the petitioner that on March 31, 2021 the present petitioner filed an application under Section 25(ii) of the PWDV Act praying for modification of the order dated February 6, 2021. The said

application has not been heard as yet. On the contrary, the opposite party filed Misc. case no.80 of 2021 for realization of arrear monetary relief amounting to Rs.1,75,000/- that fell due during the period between February 2021 and June 2021.

It is submitted by the Learned advocate for the husband/petitioner that after passing of the order dated February 6, 2021, the petitioner has been going on praying monetary relief for maintenance of their two children, he is also going on paying Rs.15,000/- per month towards monthly instalment for purchasing of an accommodation by him where his wife and children have been residing. Without considering such aspect, the Executing Court passed an order on May 19, 2022 and subsequently on June 8, 2022 directing the petitioner to pay a sum of Rs.35,000/- positively towards arrear monetary relief to the petitioner, in default distress warrant would be issued against the petitioner.

The petitioner being aggrieved has assailed the said order before this Court.

It is further submitted by the Learned Advocate for the petitioner that on March 31, 2021 the petitioner filed an application alleging, inter alia, that the opposite party/wife has been leading an adulterous life and, therefore, she is not entitled to get any monetary relief from the husband/petitioner. From the face of the record it is ascertained that the Misc. Execution case was filed by the opposite party for a sum of Rs.1,75,000/- for the period between February 2021 and June 2021, alleging thereby that

the petitioner failed and neglected to pay monetary relief @Rs.35,000/- per month to the petitioner for the above mentioned five months. In the said Mise. Execution case the present petitioner has not made any allegation against his wife. On the contrary, he made part payment on different dates. Therefore, the claim of the Learned advocate of the petitioner that the petitioner has been going on paying monetary relief for his children an amount equivalent to the EMI for purchasing a flat is apparently false and cannot be accepted.

The impugned order dated February 6, 2021 is still in-force. The said order has not been modified till date. Therefore, the petitioner is under obligation to pay monetary relief to the opposite party @ Rs.35,000/- per month.

In view of the said circumstances, I do not find any merit in the instant criminal revision and accordingly, the revision is summarily dismissed.

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

(Bibek Chaudhuri, J.)