

Form J(1)

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

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

C.R.R. 2428 of 2022

***Moudud Rahaman
Vs.
Habiba Bibi & Anr.***

**For the petitioner : Mr. Sambhu Nath De, Adv.
Mr. Ranjit Kumar Ghosh, Adv.**

Heard on : 14.11.2022

Judgment On : 14.11.2022.

Bibek Chaudhuri, J.

The petitioner is the husband of the opposite party No.1. He has filed the instant revision assailing an order dated 7th December, 2021 passed in Execution Case No.83 of 2020.

It is submitted by the learned Advocate for the petitioner that upon a proceeding under Section 125 of the Code of Criminal Procedure, the Court passed an order directing the opposite party to pay maintenance at the rate of Rs.3,000/- per month.

It is further submitted that the opposite party/wife also filed an application praying for monetary relief and other relieves under relevant provisions of the Protection of Women from the Domestic

Violence Act, 2005. The said proceeding was registered as C Case No.1114 of 2016. In the said proceeding the competent Court directed the petitioner to pay monetary allowance of Rs.10,000/-.

It is ascertained from the submission made by the learned Advocate for the petitioner that Execution Case No.247 of 2020 and Execution Case No.83 of 2020 arose out of M Case No. 523 of 2016 being a proceeding under Section 125 of the Code of Criminal Procedure.

By filing an application dated 24th February, 2021 in Execution Case No.83 of 2020, the husband/petitioner prayed for recalling of the order passed in M Case No. 523 of 2016 by passing an appropriate order giving adjustment in favour of the petitioner with regard to his liability of payment of maintenance/monetary allowance. The said application was rejected.

I have gone through the impugned order. I do not find any impropriety or illegality in the order impugned.

However, the learned Advocate for the petitioner submits that the petitioner may be directed to deposit/pay a sum of Rs.10,000/- per month to the opposite party No.1 as both maintenance allowance under Section 125 of the Code of Criminal Procedure and monetary allowance under Section 23 of the PWDV Act.

I am afraid, this order cannot be passed in the instant revision when challenging against the particular order dated 7th February, 2021 in Execution Case No.83 of 2020. Moreover, the Revision Court cannot act as a Court of original jurisdiction entertaining an application for adjustment of maintenance allowance with monetary relief.

Therefore, I do not find any merit in the instant revision and the same is summarily **dismissed**.

However, this order does not preclude the petitioner to prefer appropriate application in the Trial Court for appropriate relief.

(Bibek Chaudhuri, J.)

***Mithun De/
A.R. (Ct).
SI No.22..***