

20.12.2022
Item No. 63
BR

CRR 2614 of 2010

In the matter of : Chandra Sekhar Saha

Mr. Saryati Datta,
Mr. Chitrak Biswas
.... For the petitioner

Mr. Binay Panda,
Mr. Subham Bhakta
.... For the State

Mr. Debashis Banerjee,
Mr. S. Naskar,
Mr. Ramesh Jana ... for the O.P. No. 1

Assailing the judgment and order dated 31st May, 2010 passed by learned Additional Sessions Judge, 3rd Court, Howrah in Criminal Appeal No. 1 and Criminal Appeal No. 3 of 2009 under Section 29 of the Protection of Women from Domestic Violence Act, 2005, affirming the judgment and order passed by learned Judicial Magistrate, 4th Court, Howrah in Misc. Case No. 217 of 2008 , filed by Smt. Malina Saha, the petitioner Chandra Sekhar Saha has filed this application under Section 482 of the Criminal Procedure Code. From the attending facts of the case it is admitted that the petitioner as well as opposite party no. 1 are legally

married man and wife. They have a daughter. The opposite party no. 1 filed an application seeking maintenance under Protection of Women from Domestic Violence Act and learned trial Court was pleased to allow a sum of Rs. 4,000/- each to Smt. Malina Saha and her daughter Satavisha Saha. The petitioner made an unsuccessful attempt to modify and reverse the finding of learned trial Court in criminal appeal. While admitting the appeal on 2nd September, 2010 interim order was passed directing the petitioner to pay a sum of Rs. 8,500/- per month towards the maintenance of his wife and her minor daughter.

Mr. Saryati Datta, learned counsel representing the petitioner submits that petitioner is now a superannuated man and he has been shouldering the medical expenses of his daughter.

Mr. Debasish Banerjee, learned counsel representing the opposite party no. 1 submits that the petitioner used to serve Central Excise and there was a revision of pay. Therefore, considering his income the amount fixed by the Coordinate Bench of this Court to the tune of Rs. 8,500/- should be enhanced.

Way back in 2010 the petitioner was in service and as submitted by Mr. Datta he is now superannuated man.

Under such circumstances, I am inclined to direct the petitioner to pay a sum of Rs. 8,500/- per month as was directed on 2nd September, 2010. However, it will be the responsibility of the petitioner being the father to meet all expenses of his daughter relating to her education , marriage and medical issues. The impugned order is thus modified .

With this observation the criminal revision is disposed of .

Let a copy of the judgment be sent down to the learned trial Court for information and necessary action.

Urgent photostat certified copy of this order, if applied for, be given to the learned Advocates for the parties on the usual undertakings.

(Siddhartha Roy Chowdhury, J.)