

12.09.2022

Item No.19

Ct.No.2

dc.

**IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI
CRIMINAL REVISIONAL JURISDICTION**

**C.R.R. 36 of 2020
with
CRAN 1 of 2022**

**Sri Alok Guha
versus
Smt. Taniya Guha (Sen)**

In Re: An Application under Article 227 of the Constitution of India read with Section 401 of the Code of Criminal Procedure, 1973.

Mr. Debabrata Dhar,
Mr. Prodyut Kumar Roy ... For the Petitioner.

Ms. Suman Sehanabis ... For the Opposite Party.

The subject-matter of this revisional application relates to order dated 10.10.2018 passed in Misc. Case No. 31 of 2018 under the provisions of Protection of Women from Domestic Violence Act, 2005 and the judgment and order dated 27.11.2019 passed in Misc. Case No. 36 of 2018.

The operative part of the order dated 10.10.2018 passed in Misc. Case No. 31 of 2018 is set out as follows :

“That the interim maintenance preferred by the petitioner under sec.23 of the Act is hereby allowed on contest in part.

That the respondent no.1 is hereby directed to pay to the petitioner Rs.6,000/- (rupees seven thousand only) (read as rupees six thousand only) from this date within the tenth day of every month as the interim maintenance allowance; failing which the petitioner will be at liberty to put the matter into execution.”

The operative part of the order dated 27.11.2019 passed in Misc. Case No. 36 of 2018 is set out as follows :

“that the instant application u/s 125 of the Cr.P.C. filed by the petitioner claiming maintenance for herself as well as her minor child is allowed on contest but in part. The O/p is hereby directed to pay 6000/- for the petitioner and another sum of Rs.6000/- per month for her minor child as maintenance allowance. The o/p is further directed to make the above payment within 12th of every succeeding English calendar month from this day.”

I have considered the submissions of the learned advocates appearing for the parties and I am of the opinion that the husband is not entitled to pay to the wife in two forums. Accordingly, the amount of Rs.6,000/-, if paid to the wife in the proceedings under Section 12 of Protection of Women from Domestic Violence Act, 2005, then in that case the amount of Rs.6,000/- is not required to be paid in the proceedings under Section 125 of the Code of Criminal Procedure in Misc. Case No. 36 of 2028.

However, the petitioner is bound to pay the amount of Rs.6,000/- per month to the minor child as directed by the learned Judicial Magistrate, Tufanganj, Cooch Behar in the order dated 27.11.2019. Thus, the payment should be as follows :

- (i) Wife to receive Rs.6,000/- per month in Misc. Case No. 31 of 2018. Thus, no payment need be made in respect of the wife as adjustment in Misc. Case No. 36 of 2018.
- (ii) So far as child is concerned, the amount of Rs.6,000/- must be paid in Misc. Case No. 36 of 2018.

The arrears, if any, would be calculated accordingly by the jurisdictional courts and if there are any dues, the same should be disposed of within a period of three months by affording three equal instalments.

With the aforesaid observations, the revisional application being CRR 36 of 2020 along with connected application is disposed of.

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

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Tirthankar Ghosh, J.)