

30.11.2023
Serial no. 106-107
[G.S.D]

CRR 482 of 2023

With
CRR 457 of 2023

In the matter of : Moumita Banerjee (Sen)
... .. Petitioner

MR. SOUMIK GANGULY

Mr. Sundar Gopal Bhattacharya ... Petitioner
... for the O.P. No.2

Both the revisional applications being CRR 482 of 2023 and CRR 457 of 2023 are disposed of by a common order.

It has been brought to the notice of this court that the Id. JM, 2nd Court, Bishnupur, Bankura, by its order dated 27th May, 2021 was pleased to pass the interim monetary relief in Misc. Case No. 47 of 2020. One of the relief so granted to the present petitioner was the amount of interim maintenance to the tune of Rs.20,000/- per month.

The Id. Appellate court being the Id. ADDI. Dist.& Sessions Judge, Bishnupur, Bankura, in Criminal Appeal No. 4 of 2021 was pleased to reject such prayer and allow the appeal of the husband, being Criminal Appeal No. 4 of 2021.

The main thrust of the Id. Appellate court was that the wife was the Assistant Teacher of a Primary School and she was having an earning of her own. Another issue which

was considered by the Id. Appellate court was that the husband was the Principal of a College, who was earning around Rs.1,46,552/-. However, his liabilities were Rs.1,19,268/-. The Id. Court thereafter tried to emphasize that the savings of the husband was to the tune of Rs.27,000 to Rs.84,000/-.

I have considered the list of assets and liabilities of both the parties and the reasons so assigned by the Id. Trial Court as well as the Id. Appellate Court, and, at this stage, I am unable to persuade myself so far as the conclusion arrived at by the Id. Appellate court is concerned thereby depriving the present petitioner from any interim maintenance or litigation costs. The Id. Appellate court was swayed by the concept of the provisions of maintenance as referred to in the Cr.P.C. and did not take into account the subsequent act which gave several remedies to the aggrieved parties under the relevant provisions of the PWDV Act, 2005.

Having considered the aforesaid facts, I modify the order passed by the Id. Appellate court as well as the Id. Trial court to the following extent:

1. So far as the interim relief under Section 23 of the PWDV Act, 2005 is concerned, the interim maintenance of Rs.15,000/- per month is to be paid from the date of filing of the case.

2. At this stage, the litigation costs are kept in abeyance till disposal of the trial.
3. So far as the order under Section 18 of the PWDV Act is concerned, the order of the Id. Magistrate “Lastly, this Court taking the aid of Section 18 of the PWDV Act prohibits the respondent-husband from committing any act of domestic violence in general and also prohibits him from alienating any assets, operating bank lockers or bank accounts, if any, used or held or enjoyed by both the parties, jointly by the petitioner-wife and the respondent-husband or singly by the respondent-husband including her stridhan or any other property held either jointly by the parties or separately by them without the leave of this court in particular.” is retained.

With the aforesaid observations, CRR 482 of 2023 along with CRR 457 of 2023 is disposed of.

Pending application(s), if any, is also disposed of.

Parties to act on a server copy of this order duly collected from the official website of the Hon’ble High Court at Calcutta.

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

(Tirthankar Ghosh, J.)