

Form J(1)

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

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

CRR 558 of 2023

**Prithwish Gozi and Another
Vs.
The State of West Bengal & Anr.**

Md. Bani Israil
..for the petitioner

Ms. Suranjana Bhattacharyya
..for the respondent

Item No.16

Heard & Judgment on: 03.05.2023

Bibek Chaudhuri, J.

Marriage of the petitioner No.1 was solemnized with the opposite party No.2 on 10th March, 2010. On 12th June, 2015 the opposite party No.2 left her matrimonial home in the year 2018. The petitioner filed the suit for dissolution of marriage by a decree of divorce.

The opposite party No.2 filed a proceeding under Section 12 of the P.W.D.V. Act which was registered as M.C. Case No. 8 of 2019. It is alleged by the petitioner that by suppressing summons the opposite party No.2 obtained an ex parte order which the petitioner came to know when he received the notice of Execution Case No. 41 and 42 of 2021. He made appearance in Execution Case No. 41 and 42 of 2021 and going on paying monetary allowance at the rate of Rs.10,000/- per month.

Sometimes in December, 2022 the petitioner received another notice of M. Execution Case No. 134 of 2022. When he came to know about the criminal appeal No.11 of 2019 wherein monetary allowance was granted at the rate of Rs.25,000/- per month. It is the case of the petitioner that though the petitioner works as a physiotherapist, he earns Rs.34,000/- per month. Therefore, it is not possible for the petitioner to pay Rs.25,000/- per month. On the other hand, the opposite party No.2 filed affidavit of assets where she claimed that the petitioner earns rupees one lakh sixty thousand per month. In the instant revision the petitioner wants to refute the affidavit of assets which was filed by the opposite party No.2 in compliance with the direction of the Hon'ble Supreme Court in Rajnesh versus Neha.

At this stage, in the instant revision I am not in a position to consider the affidavit of assets.

If the petitioner has any ground for restoration of the appeal, he is at liberty to take necessary action in accordance with law before the learned Appellate Court. I do not find any merit in the instant revision and accordingly, the instant revision is dismissed.

(Bibek Chaudhuri, J.)