

01-12-2023  
Subha  
Item no. 17  
Ct no.34

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

**CRR 844 of 2022**  
**with**  
**CRAN 7 of 2023**

***Shri Abhijit Banerjee***  
**-versus-**  
***Smt. Seuli Banerjee nee Mukherjee***

Ms. Kabita Mukherjee  
Mr. Manas Dasgupta  
.....for the petitioner.

Mr. Ajay Debnath  
Mr. Pradip Kar  
Mr. Upamanyu Mukherjee  
..for the opposite party.

Learned advocate appearing for the petitioner has challenged the order dated 16<sup>th</sup> February, 2022 recorded by the learned Judicial Magistrate, 5<sup>th</sup> court, Asansol, Paschim Bardhaman in Misc. Execution Case No. 275 of 2020 arising out of Misc. Case No. 386 of 2016.

Mr. Dasgupta, learned advocate appearing for the petitioner submits that it has been recorded by the learned Magistrate that the husband earns a sum of Rs.6,50,000/- per annum and he is paying Rs.25,000/- per month towards maintenance/monetary relief in respect of the proceedings under PWDV Act, 2005. Another sum of maintenance of Rs.8,000/- ( Rs.4000/- to the wife and Rs.4000/- to the child) if added to that makes it an amount of Rs.33,000/- a month. Then it should be satisfactorily recorded by the learned Magistrate that how and on what basis if a person is earning

Rs.55,000/- (approximately a month) he would be paying maintenance more than 60% of his earning.

The learned Magistrate would clarify whether the amount of Rs.8,000/- would be the part and parcel of the amount of Rs.25,000/- which has been passed in the proceedings under the provisions of PWDV Act, 2005 or the same is in excess of the amount of Rs.25,000/- (awarded in the PWDV proceedings). Till such order is passed, the execution case being Execution Case No. 275 of 2020 arising out of Misc. Case No. 386 of 2016 would remain stayed.

However, this would not prevent the wife/opposite party to take out an application which would be a separate application under Section 127 of the Code of Criminal Procedure.

With the aforesaid observations, the revisional application being CRR 844 of 2022 along with CRAN 7 of 2023 is disposed of.

Pending any other applications, if any, are disposed of accordingly.

All concerned parties are to act in terms of a copy of this order duly downloaded from the official website of this court.

**[Tirthankar Ghosh, J]**

