

18.08.2023

Item No.11
Ct.No.34
dc.

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION**

C.R.R. 2011 of 2023

In the matter of : **Sri Vivek Agarwal** ... Petitioner.

Mr. Pratip Mukherjee,
Mr. Arpit Agarwal ... For the Petitioner.

Md. Anwar Hossain,
Ms. Manisha Sharma ... For the State.

Mr. Manjit Singh,
Ms. Tiya Mukherjee,
Mr. Biswajit Mal,
Mr. Sk. S. Hossain ... For the Opposite Party No.2.

Supplementary affidavit filed on behalf of the petitioner
be kept on record.

The subject-matter of challenge relates to the order dated 27.02.2023 passed by learned Judicial Magistrate, 2nd Court, Howrah in Misc. Case No. 16 of 2020. The said order was passed in an application under Section 12 of the Protection of Women from Domestic Violence Act, 2005 wherein by exercising powers under Section 23 of the said Act, the learned Judicial Magistrate, 2nd Court, Howrah was pleased to award an amount of Rs.30,000/- per month as monetary relief to the aggrieved person.

Having regard to the purpose for which the jurisdiction of this Court under Section 401 read with Section 482 of the Code of Criminal Procedure has been invoked, I am of the opinion that so far as the provisions of the Protection of Women from Domestic Violence Act is concerned, the petitioner should have preferred an appropriate appeal under Section 29 of the said Act before the learned District and

Sessions Judge. The revisional application was filed before this Court on or about June 2023. The learned appellate court is directed that in case an application under Section 5 of the Limitation Act is filed for condoning the delay in preferring the appeal, the same may be leniently considered by the learned appellate court. The petitioner would be at liberty to canvass all the issues including the pendency of the matrimonial case/civil proceedings, earnings particularly with regard to his capacity, finding of the learned trial court while awarding interim monetary allowance and other factual circumstances.

The petitioner would be at liberty to prefer appeal before the jurisdictional appellate court who would consider, if required, the observations made above.

The revisional application being CRR 2011 of 2023 as such is dismissed as not pressed.

Pending connected application, if any, is consequently disposed of.

All concerned 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.)