

Form J(1)

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

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

**CRR 2326 of 2022
With
CRAN 1 of 2022
With
CRAN 3 of 2023**

**Gourab Poddar
Vs.
The State of West Bengal & Anr.**

Mr. Mrinal Kanti Mukherjee,
..for the petitioner

Mr. Supriyo Das
..for the Opposite Party

Item No.184

Heard & Judgment on: 02.05.2023

Bibek Chaudhuri, J.

An order dated 23rd June, 2022 passed by the learned Metropolitan Magistrate, 11th Court, Kolkata in Misc. Execution Case No. 42 of 2022 arising out Misc. Case No. 13 of 2020 passed by the learned Metropolitan Magistrate, 11th Court, Kolkata is under

challenge in the instant revision. By passing an order dated 1st June, 2021 the learned Magistrate disposed of an application under Section 23 of the PWDV Act directing the opposite party/husband to pay monetary allowance at the rate of Rs.20,000/- per month and Rs.5,000/- per month for alternative accommodation for the wife/opposite party.

As the husband failed to make payment of the said monetary allowance, the wife/petitioner filed an application for striking out of defence of the husband in the said proceeding. The learned Magistrate vide order dated 24th March, 2022 rejected the said application filed by the wife and fixed 4th May, 2022 for further cross-examination of P.W.1. It is pointed out by the learned advocate for the petitioner that the application under Section 23 has not been disposed of and in order to dispose of the said application 4th May, 2022 was fixed for cross-examination of P.W.1.

Such submission made by the learned advocate for the petitioner suffers from misconception in view of the fact that interim application can be disposed of without any evidence on the basis of sworn affidavit by the parties. The order dated 1st November, 2021 clearly states that the application under Section 23 of the PWDV Act stood disposed of.

In view of such circumstances, the instant revision assailing the order dated 23rd June, 2022 passed by the learned Magistrate is not maintainable.

The present petitioner is directed to take part in cross-examination of P.W.1 in respect of the application under Section 12 of the PWDV Act

The opposite party is also directed to make payment of the arrear monetary allowance as well as current monetary allowance scrupulously as per the order dated 1st November, 2021. On payment and liquidation of arrear maintenance the learned Magistrate shall dispose of the application under Section 12 of the PWDV Act within four months from the date of this order.

The instant revision is disposed of.

(Bibek Chaudhuri, J.)