

CRR 2517 of 2022

In Re: - An application under Section 482 read with Section 397
and 401 of the Code of Criminal Procedure, 1973.
And

In the matter of: **Smt. Manjoo Shaw Hou**

.... Petitioner

Mr. Mahendra Prasad Gupta,
Mr. Chandan Mondal,
Ms. Antara Panja,
Mr. S. Singh

...For the Petitioner

Mr. Biswajit Ghosh,
Mr. Sumitava Chakraborty

...For the Respondents.

The petitioner filed an application under Section 12 of the Protection of Women from Domestic Violence Act, 2005 before the learned Metropolitan Magistrate, 14th Court at Bankshall Court, Calcutta against the opposite party no. 1.

Learned Magistrate by an order dated February 23, 2022 granted interim maintenance @ Rs. 25,000/- per month for the petitioner. A restraint order was also passed against disturbing the peaceful living and occupation of the petitioner at her matrimonial home. Learned Magistrate further directed to pay Rs. 5,000/- per month for accommodation of the petitioner with effect from the date of the order.

The order of the learned Magistrate was challenged in an appeal before the Court of Chief Judge, City Sessions Court, Calcutta.

The learned Judge by an order dated May 18, 2022, disposed of the said appeal by keeping in abeyance, the interim order of maintenance passed by the learned Magistrate.

The learned Judge has held that if at the time of evidence, it is found that both the parties are married to each other or both the parties have resided together as husband and wife, the learned Magistrate would be at liberty to execute the interim order passed by him. Learned Magistrate was also granted liberty to transfer two fixed deposits of Rs. 50,000/-, each deposited in the appeal Court by the petitioner.

Mr. Gupta, learned advocate appearing for the petitioner has strenuously argued that it was the finding of the learned Magistrate that the parties resided together and shared a common household. He argues that for passing a maintenance order under the said Act, 2005, it is not necessary that there has to be a relationship of husband and wife between the parties. He submits that the learned Judge in the appeal Court below erroneously stayed the order of the learned Magistrate on the ground that there was ground to disbelieve the marriage between the parties.

On the other hand, learned advocate appearing for the opposite party no. 1 submits that the marriage between the parties was seriously suspected by the learned appeal Court below and therefore, the learned Judge directed the learned Magistrate to finally dispose of the application filed under Section 12 of the said Act, 2005 within July, 2022, to avoid multiplicity of proceedings.

He further submits that citing pendency of this present revisioinal application, the petitioner did not allow the learned Magistrate to conclude the proceedings as directed by the appeal Court below.

I am of the view that the nature of disputes involved in this case requires a decision on evidence. At the same time, the petitioner

should receive same maintenance amount during the pendency of the proceeding before the Magistrate.

Accordingly, I dispose of this revisional application with a direction upon the learned Magistrate in the Court below to conclude the proceedings within four months from the date of communication of this order in the light of the judgment delivered by the Supreme Court in **2021 (2) SCC 324 (Rajnish Vs. Neha)**.

I also direct the opposite party no.1 to pay Rs. 1 lakh to the petitioner within a fortnight from date of the order as an interim maintenance. After such payment, the petitioner shall not insist on encashment of the aforesaid two fixed deposits in her favour.

This payment will be made without prejudice to the rights and contentions of the opposite party no. 1 before the learned Magistrate.

Accordingly, **CRR 2517 of 2022** is disposed of.

All parties shall act upon the server copy of this order duly downloaded from the official website of this Court.

(Kausik Chanda, J.)