

Form J(1)

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

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

CRR 3669 of 2022

**Ayan Chakraborty
Vs.
Sutapa Chakraborty & Anr.**

Ms. Bratati Dutta
..for the petitioner

Item No. 48

Heard & Judgment on: 23.03.2023

Bibek Chaudhuri, J.

The husband/opposite party in a proceeding under the Protection of Women from Domestic Violence Act is the petitioner before this Court.

Upon an application under Section 23 of the said Act, the learned Magistrate passed an order directing the present petitioner to pay interim maintenance allowance at the rate of Rs.12,000/- per month.

The petitioner has assailed the said order dated 11th August, 2022 passed by the learned Judicial Magistrate, 6th Court at Bankura in Misc. Case No. 82 of 2021 on the ground that the petitioner is working as a plumber and he has no fixed income. The learned Magistrate failed to consider such aspect of the matter.

It is found from the record that the learned Judicial Magistrate, 6th Court at Bankura disposed of the petition filed by the wife /opposite party without asking for any affidavits of assets and liabilities of the respective parties as per the guideline of the Hon'ble Supreme Court in the case of Rajnesh Vs. Neha.

In view of such circumstances, the impugned order cannot be sustained. The instant revision is, therefore, **allowed**. The order dated 11th August, 2022 is set aside. The learned Magistrate is directed to obtain affidavits of assets and liabilities from both the parties to the proceeding and on the basis of affidavits of assets and liabilities shall dispose of the application under Section 23 of the PWDV Act. The entire exercise shall be made within two months from the date of communication of this order.

The instant revision is, accordingly, disposed of.

(Bibek Chaudhuri, J.)