

IN THE HIGH COURT AT CALCUTTA

Criminal Revisional Jurisdiction

APPELLATE SIDE

Present:

The Hon'ble Justice Shampa Dutt (Paul)

CRR 38 of 2022

With

CRAN 1 of 2022

Prashanta Kumar Biswas

Vs.

The State of West Bengal & Anr.

For the Petitioner : Mr. Soumyajit Das Mahapatra,
Mr. Sourav Chatterjee.

For the Opposite Party : Mr. Rajdeep Pramanick.
No. 2

Hearing concluded on : 05.11.2024

Judgment on : 07.11.2024

Shampa Dutt (Paul), J.:

1. The present revision has been preferred against an order dated 08.07.2021 passed by the learned Additional Sessions Judge, Fast Track 3rd Court, Barrackpore, North 24 Parganas, in Criminal Appeal No. 4/2020 whereby order dated 12.12.2019 passed by the learned Judicial Magistrate, 1st Court, Barrackpore, North 24 Parganas, in Misc. Case No. 65/2018 under Section 23 of the Protection of Women from Domestic Violence Act, 2005 **has been modified.**
2. By the said order under revision, the learned Additional Sessions Judge, Fast Track 3rd Court, Barrackpore, has been pleased to modify the order of the learned Judicial Magistrate to the following extent :-

“.....The order dated 12.12.19 passed in the proceeding of Misc. Case No. 65 of 2018 by Ld. Judicial Magistrate, 1st Court, Barrackpore is hereby modified to the extent that in addition to the relief already granted by Ld. Judicial Magistrate, 1st Court, Barrackpore, the appellant is also entitled to get interim maintenance to the tune of Rs.5,000/- a month from the private respondent.

The private respondent is directed to disburse the aforesaid amount within 10th day of each succeeding month, according to English calendar.....”

3. The order passed by the **learned Magistrate** on the basis of the report of the protection officer is as follows :-

“.....Both the sons of petitioner are major. Now, both parties led argument on the point that both parties are engages in illicit affair and bigamy. But at this stage such allegations cannot be verified and appreciation of evidence is also required. Till that stage arrives the petitioner is entitled to prima facie protection provided under the D.V. Act.

The respondent is hereby prohibited u/s 18 of the D.V. Act from committing, aiding, abetting any sort of domestic violence upon the aggrieved lady/petitioner in any manner whatsoever in default of which they will be liable

*to be prosecuted under section 31 of the Protection of Women from Domestic Violence Act, 2005.
Other reliefs prayed for by the petitioner u/s 19, 20, 21 and 22 of the D.V. Act, 2005 shall be considered after appreciation of evidence and therefore, refused at this stage.....”*

4. On hearing the learned counsel for both the parties and considering the materials on record, it appears that the marriage between the parties is admitted. Though, it is seen that the last domestic violence allegedly committed upon opposite party no. 2 as seen from the report of the Protection Officer was in **September, 2003.**
5. It appears that the parties have separated since September, 2003 and the marriage took place in the year 1990.
6. Considering the said submission and the findings of the learned Judicial Magistrate, 1st Court, Barrackpore and also the findings of the learned Additional Sessions Judge, Fast Track 3rd Court, Barrackpore, 24 Parganas (North) and the observations as made in the judgments, it appears that the appellate Court has allowed an amount of Rs.5,000/- as interim maintenance in the interest of justice, keeping in mind that the relief prayed for is under a beneficial legislation and, as such, this Court is not inclined to interfere with the order of the learned Additional Sessions Judge, Fast Track 3rd Court, Barrackpore, 24 Parganas (North), the amount granted also being minimum.
7. Accordingly, the criminal revision being CRR 38 of 2022 is disposed of with the direction that the **learned Magistrate shall dispose of the Misc. Case being Misc. Case No. 65 of 2018, in accordance with law expeditiously preferably within 6 months from the date of**

this order without being influenced by the findings and order of the learned Additional Sessions Judge, Fast Track 3rd Court, Barrackpore, 24 Parganas (North).

8. All connected application, if any, stands disposed of.
9. Interim order, if any, stands vacated.
10. Copy of this judgment be sent to the learned Trial Court for necessary compliance.
11. Urgent Photostat certified copy of this judgment, if applied for, be supplied to the parties, expeditiously after complying with all necessary legal formalities.

(Shampa Dutt (Paul), J.)