

07.02.2024
Item No.152
Ct.No.34
dc.

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

C.R.R. 1083 of 2023

In the matter of : **Dayanjan Biswas**

... Petitioner.

Mr. Ranjit Kumar Roy,
Ms. Ekta Shaw

... For the Petitioner.

Leave is granted to the learned advocate appearing for the petitioner to amend the cause title.

Learned advocate appearing for the petitioner is aggrieved by the order dated 18.02.2023 passed by learned Judicial Magistrate, 2nd Additional Court, Barasat. The main grievance of the petitioner is that the minor son of the petitioner attained majority as his date of birth was 24.08.2001. As such, his claim for monetary relief was barred after 24.08.2019. Learned Magistrate without entering into the said consideration that the issue relating to the age of the son has an impact on the monetary relief in respect of the provisions of Section 23(2) as also Section 20(1)(d) of the Protection of Women from Domestic Violence Act, proceeded under the provisions of Section 125 of the Code of Criminal Procedure and arrived at his own findings that a major son will get maintenance and father is bound to maintain him.

The present case is an execution case. In the fitness of the circumstances, it would have been proper to deal with the same under Section 25(2) of the Protection of Women from Domestic Violence Act. However, the petitioner insists on the findings of the learned Magistrate so far as the entitlement of a major son to get maintenance under the provisions of the

Protection of Women from Domestic Violence Act. The reasons so assigned by the learned Judicial Magistrate, 2nd Additional Court, Barasat requires reconsideration as a major son will be entitled to maintenance subject to certain conditions. The said conditions are not reflected in the order so passed on 18.02.2023. Having regard to the same, the findings of the learned Magistrate are set aside.

The learned Magistrate will express in his order the requirements of the major son as his claim not vaguely, but to the extent of his requirement and his entitlement under the law. A fresh order be passed by the learned Magistrate in respect of the application filed by the petitioner within a period of sixty days from the date of communication of this order.

With the aforesaid observations, the revisional application being CRR 1083 of 2023 is disposed of.

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.)