

D/L 139
23.12.2024
Kausik
ct.no.35

**W.P.A. 7925 of 2023
With
CAN 1 of 2023
CAN 2 of 2024**

**Shyama Rani Roy
Versus
The State of West Bengal & Ors.**

Ms. Anita Kaunda
Ms. Anubrata Dutta

...for the petitioner

Mr. Avik Ghatak
Mr. Soumya Nag

...for the respondent no. 5.

Mr. Suman Ghosh

...for the state.

Petitioner is aggrieved by the fact that in spite of the warrant of arrest issued, the police authorities have not executed the same both in connection with CEX 04 of 2021 pending before the learned Judicial Magistrate (2nd Court), Barasat and also in connection with CEX 45 of 2023 pending before the learned Judicial Magistrate (2nd Court), Barasat.

Both cases relate to the provisions of PWDV Act, 2005 from which the execution cases arose.

Mr. Ghatak, learned advocate appearing for the respondent no. 5 undertakes that the respondent

would appear before the learned Judicial Magistrate (2nd Court), Barasat preferably by 05.01.2025.

In view of the undertaking placed by the learned advocate, the warrant of arrest so issued by the learned Judicial Magistrate (2nd Court), Barasat in connection with CEX 4 of 2021 and CEX 45 of 2023 be kept in abeyance till 15.01.2025.

Once the respondent no. 5 appears before the court notice be issued upon the petitioner. The learned magistrate would within a period of 7 days decide the quantum which is due.

In case the quantum is excessive as dues, learned magistrate would grant two instalments to the respondent no. 5 to clear whole of the dues.

So far as the issue relating to attachment is concerned which was passed by way of an order dated 03.07.2023 by this court, the learned judicial Magistrate (2nd Court), Barasat, after it is ensured regarding the regular presence of the respondent no. 5 before the court and also in relation to the payments which are to be cleared in time, would recall the order of attachment passed on 03.07.2023 in connection with WPA 7925 of 2023.

Another case being MEX 536 of 2017 is pending in connection with proceeding under section 125(3) of Cr.P.C. before the learned ACJM, Barasat.

Petitioner would also appear before the said court on or before 05.01.2025. The execution of the warrant of arrest would be stayed. Learned ACJM would take into account both the proceedings under the PWDV Act and the maintenance case and will arrive at a finding regarding the dues after setting of the payments which have been made and also in respect that no double payment is being made at the instance of the husband.

Both the learned ACJM, Barasat and learned Judicial Magistrate (2nd Court), Barasat will take into account the total dues by setting of the amounts which have been paid, arrive at their conclusion and it is reiterated that if the amount is excessive, two instalments be granted and act according to the directions passed above.

With the aforesaid observations WPA 7925 of 2023 is disposed of along with the connected applications.

Efforts be taken by the ACJM, Barasat and the learned Judicial Magistrate (2nd Court), Barasat to complete whole of the process by 31.01.2025.

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

(Tirthankar Ghosh, J.)