

CRR 2450 of 2024

Rituparna Das
Vs.
Sayantan Das & ors.

Adv. Debabrata Roy,
Adv. Kiron C. Saha,

... for the petitioner.

Adv. Pawan Kumar Gupta,
Adv. Sofia Nesar,
Adv. Santanu Sett,

...for the O.Ps.

Since the private opposite parties are represented, the petitioner has served copy of the application along with annexure thereto upon the learned advocate for the opposite parties in Court this day.

Heard learned counsels for the parties.

The petitioner has assailed the order passed by the learned Additional Sessions Judge, 2nd Court, Howrah in Criminal Appeal no.98 of 2023 on 10th May, 2024 affirming the order passed by the learned Judicial Magistrate, 7th Court, Howrah on 5th September, 2022 in Misc. Case no. 219 of 2018. By order dated 5th September, 2023, the learned Magistrate has vacated the interim order passed vide order dated 27th December, 2018.

On an application filed by the petitioner under Section 23 of the Protection of Woman from Domestic Violence Act, 2005, learned Magistrate passed an order on 27th December, 2018 directing the 1st opposite party to pay the interim monetary relief to the tune of Rs.13,000/- per month to the petitioner and Rs.7,000/- for her child, total amount payable being

Rs.20,000/-. The said order was carried in appeal before the learned Sessions Judge and by an order passed in Criminal Appeal no.7 of 2019, learned appellate Court modified the order of interim monetary relief to the extent that the 1st opposite party was directed to pay Rs.7,000/- for the petitioner and Rs.3,000/- for the child along with Rs.5,000/- as EMI of the arrears due. The said order was challenged before this Court and by an order passed on 16th March, 2021 in CRR 1437 of 2020, this Court directed that the interim monetary relief which was granted by the learned Judicial Magistrate, 7th Court, Howrah vide order dated 27th December, 2018 be made absolute till the disposal of the application under Section 12 of the Act. This Court further directed the learned Judicial Magistrate to dispose of the application under Section 12 of the Act expeditiously, preferably within six months from the date of communication of the order.

It is absolutely shocking to note that the learned Judicial Magistrate, vide order passed on 5th September, 2022, vacated the interim monetary relief granted to the petitioner in gross violation of the order of this Court passed on 16th March, 2021 in CRR 1437 of 2020. The application under Section 12 of the 2005 Act is still pending.

In view of the above, this Court is inclined to hold that the order impugned dated 10th May, 2024 passed by the learned Additional Sessions Judge, 2nd Court, Howrah in Criminal Appeal no. 98 of 2023 as well as the order dated 5th September,

2022 passed by the learned Judicial Magistrate, 7th Court, Howrah in Misc. Case no. 219 of 2018 be set aside/quashed.

The 1st opposite party shall continue to pay the interim monetary relief to the petitioner and the minor child in terms of the order passed by the learned Magistrate on 27th December, 2018 till disposal of the application under Section 12 of the Act, as directed by this Court earlier.

The 1st opposite party is further directed to pay the arrear maintenance in terms of the order of this Court dated 16th March, 2021.

Learned trial Court shall dispose of the application under Section 12 of the Act within six months from the next date of hearing fixed before him without granting unnecessary adjournment to either party, in accordance with law.

With the aforesaid directions, CRR 2450 of 2024 is disposed of.

Urgent certified website copy of this order, if applied for, be given to the parties, upon compliance of all requisite formalities.

(Suvra Ghosh, J.)