

13.05.2024
Item No.27
Ct.No.34
dc.

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

**C.R.R. 3164 of 2023
with
CRAN 1 of 2023**

In the matter of : **Dipshikha Ghosh @ Roy @ Dip Shikha Roy**
... Petitioner.

Mr. Apalak Basu,
Ms. Sanghamitra Mridha ... For the Petitioner.

Mr. Debajyoti Deb,
Ms. Somdyuti Parekh ... For the Opposite Party.

The present revisional application has been preferred at the instance of the wife who was aggrieved by the order passed by the learned appellate court being the learned Additional Sessions Judge, Fast Track, 2nd Court, Sealdah wherein the learned appellate court in Criminal Appeal No. 02 of 2022 with Criminal Appeal No. 03 of 2022 by a common order was pleased to reject the interim order seeking interim monetary relief to the present petitioner.

Learned advocate appearing for the petitioner submits that subsequently in an application under Section 125 of the Code of Criminal Procedure being ACM-251/22, learned Judicial Magistrate, 9th Court, Alipore has been pleased to award a sum of Rs.45000/- per month with effect from 05.04.2022.

Having regard to the fact that the petitioner is entitled to interim maintenance, at this stage I restrain myself regarding the reasons, findings and observations of the learned appellate court. I direct the learned trial court being the learned Judicial Magistrate, 5th Court, Sealdah in D.V.

Case No. 78 of 2021 to proceed with the trial of the case as the petitioner is supposed to receive interim maintenance in connection with the case under Section 125 of the Code of Criminal Procedure. Accordingly, I am not interfering with the order passed by the learned Additional Sessions Judge, Fast Track, 2nd Court, Sealdah passed in Criminal Appeal No. 02 of 2022 with Criminal Appeal No. 03 of 2022. However, I make it clear the same do not automatically be taken as granted that I have accepted the contentions, reasoning and findings of the learned Sessions Judge while arriving at its conclusion.

The learned Magistrate will proceed with the merits of the case after the evidence being adduced as the reliefs under the provisions of the Protection of Women from Domestic Violence Act are much more wider than the proceedings under Section 125 of the Code of Criminal Procedure and so far as the monetary relief is concerned, the same is not interfered with only because of the reason that the petitioner has been entitled to a sum which is higher than the present sum which was awarded by the learned Magistrate in the case of Protection of Women from Domestic Violence Act.

This Court is also vacating the interim order which was passed only because of the reason that an amount of Rs.45000/- which has been awarded in the case under Section 125 of the Code of Criminal Procedure is from the date of filing of the application. Any amount which has been paid by the husband/opposite party would be set off from the

claim which is accruing from the proceedings in ACM-251/22.

With the aforesaid observations, the revisional application being CRR 3164 of 2023 along with CRAN 1 of 2023 is disposed of.

Certified copy so filed by the learned advocate appearing for the petitioner be kept with the record.

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.)