

CRR 3779 of 2022

**Debananda Adhikary & Ors.
Vs.
The State of West Bengal & Anr.**

Mr. Pritam Chaudhury
Mr. Safik Dewan
... for the petitioners

Affidavit-of-service filed be kept with the record. In spite of due service there is no representation on behalf of the opposite party no. 2.

The present revisional application has been preferred against an order dated 23.08.2022 passed by the learned Judicial Magistrate, 1st Court, Howrah, in Misc. Case No. 368 of 2021 under Section 12 of the Protection of Women from Domestic Violence Act, 2005.

Vide the said order the learned Magistrate has passed an order which reads as follows :

“Both parties filed hazira. O.P. filed a petition praying for time. Hd. Considered. Prayer is allowed subject to cost @ Rs.10,000/-. Petitioner filed a petition praying for call for whatsapp chat details. Let it be kept with record. Fix 27.9.22. for affidavit of assets & liabilities & P/Cost.”

The present revisional application has been preferred being aggrieved with the said costs being imposed upon the petitioner.

On perusal of the materials on record and considering the conduct of the opposite party, who has not chosen to appear and the fact that though the Misc. Case has been preferred in the

year 2021, the learned Magistrate was pleased to not pass an interim order of monetary relief in favour of the wife.

Considering the amount of cost imposed by the learned Magistrate, this Court finds that the said order is against the interest of justice and is an abuse of the process of the law/Court.

The order dated 23.08.2022 passed by learned Judicial Magistrate, 1st Court, Howrah, in Misc. Case No. 368 of 2021 is accordingly set aside.

The learned Magistrate shall dispose of the Misc. Case finally within a period of six months from the date of communication of this order upon hearing both the parties and following the guidelines of the Hon'ble Supreme Court in ***Rajnesh vs. Neha (2021) 2 SCC 324.***

The present revisional application is, thus, disposed of.

All connected applications, if any, stand disposed of.

Interim order, if any, stands vacated.

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

(Shampa Dutt (Paul), J.)