

In The High Court at Calcutta
Criminal Revisional Jurisdiction

Appellate Side

Coram:

The Hon'ble Justice Jay Sengupta

CRR 135 of 2025

With

CRAN 1 of 2025

Tanmay Roy

Vs.

Smt. Seema Ghosh Roy

For the petitioner : Mr. Jayanta Narayan Chatterjee, Sr. Adv.

Mr. Supreem Naskar

Ms. Jayashree Patra

Ms. Pritha Sinha

For the Opposite party : Mr. Dipanjan Datta

Mr. Subhojit Chowdhury

Heard on : 02.05.2025

Judgment on : 02.05.2025

Jay Sengupta, J.:- This is an application challenging the order dated 09.12.2024 passed by the Sessions Judge, North 24 Parganas in Criminal Appeal No. 28 of 2024 thereby modifying the judgment passed by the learned

Trial Court in granting interim maintenance allowance under the provisions of the Protection of Women from Domestic Violence Act, 2005.

Learned senior counsel representing the petitioner submits as follows. The petitioner is the husband of the opposite party. He has been suffering from cancer for the last 12 years. He is working at the Infosys. In connection with a divorce suit filed by the petitioner, the District Judge directed the petitioner to pay a sum of Rs.15,000/- as maintenance allowance for the daughter. The petitioner is regularly paying such sum. The wife is earning about Rs.80,000/- per month. The husband, on the other hand, earned about Rs.1.15 thousand per month. By an interim order passed by this Court, the undertaking of the petitioner was recorded that he would keep on paying Rs.15,000/- as monthly maintenance allowance to the minor daughter. In spite of this, a warrant of arrest has been issued by the learned Magistrate. In the proceeding under the provisions of Protection of Women from Domestic Violence Act, however, the petitioner was directed to pay a sum of Rs.15,000/- for the wife and Rs.10,000/- for the daughter. This was modified by the learned appellate Court. The grant of maintenance to the wife was set aside and the petitioner was directed to pay Rs.20,000/- as maintenance allowance including for educational expenses for the minor daughter.

Learned counsel appearing on behalf of the wife denies the allegations and submits as follows. It appears that the learned Magistrate and the learned

Appellate Court granted the sum/s after taking into consideration the amount granted by the civil Court in the divorce suit as maintenance allowance. Therefore, the sum payable to the minor daughter as per the appellate Court's order is in addition to the sum payable under the civil proceeding. Moreover, the petitioner has not paid the sum of Rs.15,000/- for the last two months. Although the appellate Court took into consideration the petitioner's claim that she was maintaining her old parents, upon instruction, it is submitted that the parents passed away in the year 2016 and 2017, respectively.

It appears from the orders passed by the learned Courts that although the appellate Court took into consideration the sum granted as maintenance allowance by the civil Court, it did not specifically state that the sum should be in addition to the one granted by the civil Court.

Considering the materials on record including on the question of incomes of the parties and after careful perusal of the orders passed by the Courts under the provisions of Protection of Women from Domestic Violence Act, it appears that a sum of Rs.20,000/- be paid to the minor daughter as maintenance allowance was not directed to be paid in addition to the sum of Rs.15,000/- payable under the order of the learned civil Court.

It is trite law that when two Courts grant maintenance allowances, the petitioner is supposed to pay the higher of the two amounts, unless directed otherwise.

In the present facts and circumstances, it would be quite fair and just if the petitioner is directed to pay a sum of Rs.20,000/- per month as interim maintenance allowance to the minor daughter till the main matter is finally disposed of.

Accordingly, the petitioner shall continue to pay Rs.20,000/- as interim maintenance allowance to the minor daughter from the date of passing of the order by the learned Magistrate.

With the above observations and directions, the revisional application being CRR 135 of 2025 stands disposed of. Accordingly, the connected application also stands disposed of.

The executing Court shall act in terms of the order.

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

(Jay Sengupta, J.)