

HIGH COURT AT CALCUTTA
CONSTITUTIONAL CRIMINAL JURISDICTION

Present:

THE HON'BLE JUSTICE JAY SENGUPTA

CRR 331 of 2025
Subhadeep Koner
versus
The State of West Bengal & Anr.

For the petitioner	Mr. Soumyopriya Chaudhury Mr. Debapratim Guha Mr. Achinta Sarkar
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For the O.P. No. 2	Mr. Apalak Basu Ms. Sanghamitra Mridha
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Lastly heard	08.07.2025
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Judgment on	08.07.2025
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JAY SENGUPTA, J:

1. This is an application praying for quashing of the impugned proceeding being AC case No. 2680 of 2024 pending before the learned Judicial Magistrate, 9th Court, Alipore, under Section 12 read with Section 23 of the Protection of Women from Domestic Violence Act, 2005 and all orders passed therein, including the order dated 21.12.2024 passed by the learned Sessions Judge in Appeal No. 313 of 2024.

2. Supplementary affidavit filed on behalf of the petitioner is taken on record.

3. Learned counsel appearing on behalf of the petitioner submits as follows. The petitioner is the husband of the opposite party No. 2. Both are doctors. The petitioner was a Government doctor earning about Rs.83,000/- and odd as gross salary while the wife was employed at Novo Nordisk Pvt. Ltd. and was earning a salary of Rs.1,16,000/- and odd as on October 2023. By making complete suppression of the actual facts in her affidavit-of-assets, the wife had declared before the learned Magistrate that she was earning only Rs.20,000/- and she claimed that the husband was earning Rs.1,85,000/-. Learned Magistrate passed an interim order granting Rs.50,000/- as monetary relief as an interim measure. This was scaled down to Rs.30,000/- by the learned Appellate Court. The appeal is still pending. In fact, the husband/petitioner filed a case of forgery against the wife/opposite party in January, 2025. After coming to know about the same, the wife in April 2025 filed an application before the learned Magistrate seeking to amend the application by stating the actual facts about her income. In view of the changed circumstances, the interim orders granting interim monetary relief in favour of the opposite party/wife cannot stand.

4. Learned counsel appearing on behalf of the wife/opposite party denies the allegations and submits as follows. First, the appeal before the Sessions Court is still pending. Secondly, the filing of the application making certain claims was a result of certain miscommunication with her learned advocate before the learned Trial Court.

5. Be that as it may, it appears that the present opposite party No. 2 has now sought amendment of her application as regards her actual income. Therefore, the question of interim monetary relief has to be given a relook.

6. In view of the same, the appeal proceeding pending before the Sessions Court is quashed. The orders passed by the Sessions Court and the Magistrate granting orders of interim monetary relief are also set aside. The matter is remanded back to the learned Magistrate for deciding afresh the question of interim monetary relief and other reliefs.

7. The learned Magistrate is requested to hear the parties and decide the question of grant of interim monetary relief in accordance with law and as expeditiously as possible, preferably within six weeks from the date of communication of this order.

8. With these observations and directions, the revisional application is disposed of.

9. Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

(Jay Sengupta, J)

