

IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
Appellate Side

Present:

The Hon'ble Justice Ajay Kumar Gupta

C.R.R. 1768 of 2024
Dipankar Dey
Versus
The State of West Bengal and Ors.

For the Petitioner : Mr. Anindya Halder, Adv.
Mr. Zubair Ahmed, Adv.

For the Opposite Party Nos. 2 & 3 : Mr. Tapas Kumar Ghosh, Adv.
Mr. Tanmoy Chowdhury, Adv.

Heard on : 26.08.2025

Judgment on : 26.08.2025

Ajay Kumar Gupta, J:

1. The petitioner preferred this application under Section 401 read with Section 482 of the Code of Criminal Procedure, 1973 challenging the correctness, legality and propriety of the Judgment and Order dated 7th February, 2024 passed by the Learned District

and Sessions Judge, Hooghly in Criminal Motion No. 106 of 2023 arising out of Misc. Execution No. 265 of 2022 pending before the Learned Judicial Magistrate, 3rd Court at Chinsurah, Hooghly and arising out of Misc. Case No. 36 of 2020 pending before the Learned Judicial Magistrate, 3rd Court at Chinsurah, Hooghly.

2. Opposite party nos. 2 and 3, being the wife and daughter of petitioner, had filed an application under Section 23(1) of the Protection of Women from Domestic Violence Act, 2005 before the Learned Judicial Magistrate, 3rd Court at Chinsurah, Hooghly against the Petitioner/husband praying for interim order of maintenance and other reliefs.

3. After hearing the parties, the learned trial Court rejected the maintenance of OP No. 2 and her daughter as it was admitted fact that she had her own income of Rs. 11,420/- per month. However, the learned trial Court held that the petitioners are entitled to get an order of protection against domestic violence and a residential order of alternative accommodation as they were living separately due to matrimonial discords.

4. The learned trial Court finally directed the Petitioner/husband to arrange separate accommodation for the OP Nos. 2 & 3 i.e. her and her daughter, in default, the Petitioner/husband shall pay Rs.5,000/- per month for rent of

separate accommodation to the OP No. 2 from the date of the order till disposal of the case vide order dated 31.10.2021 in Misc. Case No. 36/2020.

5. Feeling aggrieved by and dissatisfied with the impugned order dated 31.10.2021, the Petitioner preferred an appeal under section 29 of the DV Act. The said appeal was dismissed vide order dated 27.06.2022 by Learned Additional Sessions Judge, Hooghly on contest and affirmed the order dated 30.10.2021 passed by the learned trial Court.

6. Opposite parties have filed Misc. Execution Case being No. 265 of 2022 claiming arrear of rent amount since amount neither paid nor arrange any accommodation. The said Execution case has been heard by the Executing Court and disbelieved the contention of the petitioner and his documents and finally came to conclusion that the documents, whatsoever filed by the Petitioner informing he has arranged rented accommodation on 03.11.2023 does not inspire confidence and dismissed his application vide order dated 21.07.2023 and date fixed for E/R of distress warrant.

7. Being aggrieved by and dissatisfied with the said impugned order dated 21.07.2023, the Petitioner filed a revisional application being Criminal Motion No. 106 of 2023 arising out of Misc. Execution No. 265 of 2022 pending before the Learned Judicial Magistrate, 3rd

Court at Chinsurah, Hooghly arising out of Misc. Case No. 36 of 2020. The said revisional application was also dismissed on contest by the Learned Sessions Judge, Hooghly vide order date 07.02.2024. The said impugned order is the subject matter of the challenge before this Court.

8. It is submitted on behalf of the Petitioner that in pursuant to the direction, the petitioner/husband arranged a separate rented accommodation for the OPs but the Executing Court or the Learned Sessions Judge did not consider the documents and the letter dated 25.05.2023 by which it was intimated to the wife that he arranged the rented premises. She did not dispute the receipt of the letter. Therefore, impugned order is liable to set aside.

9. Having heard the submission of the Learned Counsels of the respective parties and upon perusal of the documents particularly the letter as claimed by the petitioner that it was sent to the OPs. through registered post, it clearly indicates that a rented premises had been arranged by the petitioner on and from 03.11.2023 and the Tenancy Agreement has been come into effect on and from 03.11.2021 though he intimated his wife by a registered letter on 27.05.2023. The date of letter is mentioned as 25.05.2023. It cannot be acceptable, how he can intimate the wife in the month of May, 2023 although he had arranged tenanted premises on 03.11.2023

and tenancy agreement executed in 2021. Furthermore, all these dates appearing in the letter are after the filing of execution case. It is also admitted fact that OPs are not residing in the tenanted premises as arranged by the Petitioner on and from the order dated 31.10.2021. Therefore, there is no reason to interfere with the order passed by the Executing Court or Sessions Judge. Impugned order dated 07.02.2024 calls for no interference.

10. Consequently, **CRR No. 1768 of 2024** is, thus, **dismissed** on contest. The impugned order dated 07.02.2024 under challenge is hereby affirmed.

11. Interim order, if any, stands vacated.

12. Connected application(s), if any, also stand disposed of.

13. Let a copy of this Judgment be communicated to the learned trial Court for information.

14. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

15. Urgent certified copy, if applied for, be duly supplied to the applicant(s) after compliance of all legal formalities

(Ajay Kumar Gupta, J)