

13.
26-11-2025
(ct. no.34)
debajyoti

**IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction**

**CRR 3894 of 2025
+
IA NO:CRAN/1/2025**

**Sri Aniket Maity & Ors.
Vs.
Smt. Manasi Kundu & Anr.**

Mr. Aniket Maity
... Petitioner No.1 in person.

Mr. Amit Ranjan Pati, Adv.,
Mr. Sunayan Ghosh, Adv.,
Ms. Swastika Chowdhury, Adv.,
Ms. K. Kubra, Adv.,
Mr. Avijit Chatterjee, Adv.,
Mr. Anish Goswami, Adv.,
Ms. Ilika Nag, Adv.,
Mr. Dip Dutta, Adv.
... For Opposite Party No.1.

1. This is an application filed for quashing of the proceeding being Misc. Case No.152 of 2023 under Section 12 of the Protection of Women from Domestic Violence Act along with the order dated 08-08-2023 passed ex parte under Section 23(2) of the Protection of Women from Domestic Violence (hereinafter 'PWDV') Act passed by the learned Judicial Magistrate, 1st Court, 6th Court, Medinipur, Paschim Medinipur.

2. The petitioner no.1 is representing all the petitioners in this case by virtue of a Power of Attorney executed by them in favour of the petitioner no.1. It is pertinent to mention that the petitioner nos.2 to 4 are his parents and near relatives.

3. The dispute in this case cropped up when an ex parte order of interim maintenance was granted by the

learned trial Court under the relevant provisions of PWDV Act.

4. The learned Magistrate, considering the submissions of the learned advocate representing the opposite party no.1. after going through the materials on record granted an amount of Rs.5000/-to be paid as an interim maintenance in order to protect the opposite party no.1 from facing any financial crisis and considering the materials under the provisions of PWDV Act, to be paid to the wife.
5. The petitioner raises objection and submits that the said order has been tampered as he found after obtaining the certified copy of the order some interpolation therein and, accordingly, he filed number of applications to that extent. It is further submitted that none of those applications were heard by the learned trial Court as of date and, therefore, he has come before this Court for quashing of the impugned proceeding.

6. The specific point raised on behalf of the petitioners are that there was non-completion of all the ceremonies of the Hindu Marriage Act which attracts nullity of marriage and there existed no domestic relation as essential to maintain an application under P.W.D.V Act,2005. Secondly, there is enough evidence to show that the wife voluntarily left the matrimonial home and was leading life indulging adultery. More so, in order to attract a wrong jurisdiction, the opposite party no.1 used a fake address. In support of this contention regarding maintainability of this revisional application under Section 482 of the Code of Criminal Procedure, the petitioners have relied upon a decision in the case of Shaurabh Kumar Tripathi Vs. Vidhi Rawal, reported in 2025 INSC 734 and another decision of the Hon'ble Supreme Court in V. Krishnamma & Ors. Vs. Garima Bais (SLP (Crl.) No.9534 of 2025).It is further pointed out that he received the copy of the order where the presence of a son was mentioned when they are childless couple and when he obtained the certified copy of the order

,that part was found corrected .Hence he filed the application under section 340 crpc which is pending before the learned court.

7. The Learned advocate appearing on behalf of the opposite party no.1 raises vehement objection and submits that the present petitioner no.1 filed a suit for a decree of divorce and after that, the present petitioner no.1 appeared and later on, the suit was withdrawn and thereafter filed a proceeding for nullity of marriage when the wife filed the application under P.W.D.V Act .It is prayed that no vexatious allegations have been levelled against the petitioners and hence this proceeding is liable to be set aside.

8. Admittedly, a marriage was commenced and both the husband and wife lived their conjugal life till 31.8.22 as found from the written complaint. The matrimonial discord cropped up between the parties and the opposite party no.1 filed the case before the learned court under section 12 of P.W.D.V Act and further prayed for interim order .

9. It is undisputed that no appeal has been filed challenging the said order granting maintenance in terms of section 29 of the P.W.D.V Act and no order of stay is there in connection with any proceeding.

10. Heard the submission of both the learned advocates for the parties. On careful consideration of the petition, this Court *prima facie* finds that an application under Section 12 of the PWDV Act against the present petitioner and the relatives of the opposite party no.1 was filed on 04th July, 2025 before the learned Chief Judicial Magistrate. Later on, an application under Section 23(2) of the said Act was filed along with the application under Section 12 for interim relief. The affidavit of asset and liabilities of opposite party no.1 was also filed in consonance with the celebrated decision of the Hon'ble

Supreme Court in the case of Rajnesh Vs. Neha & Anr., reported in (2021) 2 SCC 32.

11. The learned court considering the said affidavit of asset and on the basis of the pleading placed before the court, passed such interim order of maintenance. The fact remains that no appeal has been filed by the present petitioner assailing the said order of maintenance. The allegation levelled against the opposite party no.1 by the petitioners are legality of the marriage and the suppression of fact regarding address of the opposite party no.1 and also the fact that the opposite party no.1 was driven out by the present petitioner as alleged can only be decided in course of trial after taking evidence of both the parties. That apart, this is not a court of appeal to ascertain all those aspect.

12. In the judgment relied upon by the petitioners the main question involved was whether the High court can invoke it's inherent jurisdiction under section 482 CrPc, 1973 to quash the proceedings initiated under section 12 of the P.W.D.V Act 2005 . It was observed that in a given case where a learned Magistrate is dealing with an application under Section 12(1), the High Court can exercise the power under the second part of Section 482 to prevent abuse of the process of any Court. It is held that unless the High Courts show restraint in the exercise of jurisdiction under Section 482 of the Code of Criminal Procedure while dealing with a prayer for quashing the proceedings under the Domestic Violence Act, 2005, the very object of enacting the Domestic Violence Act, 2005 will be defeated. Therefore while exercising jurisdiction under section 482CrPc.or 528 BNS the High court should be very slow and circumspect .

13. In this case, from the four corners of the application, no such reason can be found for which it is necessary to intervene by exercising power under Section 482 of the Code of Criminal Procedure and to quash the entire proceeding filed under Section 12(1) of the Domestic

Violence Act, 2005. However, the present petitioners have raised certain grievance regarding the delay in disposing the petitions filed by him in connection with this proceeding . It is assailed that the applications filed by the present petitioners are not being considered and 12 dates have already been passed for disposing such applications, hence the learned Magistrate is hereby directed to hear out the applications as expeditiously as possible without granting unnecessary adjournment to either of the parties. The point raised regarding interpolation also it is submitted that an application under section 340 crpc is pending before the learned court. On a cursory glance of the order it transpired that in two places two words are inserted and some corrections made with the initials however the learned court is to consider that aspect while hearing the application under section 340crpc.

14. In view of absence of any such ingredients to exercise power under Section 482 of the Code of Criminal Procedure, this Court is not inclined to pass any order in favour of the petitioners. With the above direction, the revisional application is dismissed along with the connected application. However the petitioner is given liberty to prefer appeal against the order impugned before the appropriate forum .

15. All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

16. Criminal Section is directed to supply certified copies of this order to the parties, if applied for, upon compliance of all necessary formalities.

[Chaitali Chatterjee (Das), J.]