

14.
26-11-2025
(ct. no.34)
debajyoti

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

**CRR 3895 of 2025
+
IA NO:CRAN/1/2025**

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

Mr. Aniket Maity
... Petitioner 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 revisional application is filed for quashing of the entire proceedings being Misc. Case No.45 of 2024 under Section 6(5) of Protection of Women from Domestic Violence (hereinafter 'PWDV') Act read with Section 125(3) of the Code of Criminal Procedure pending before the learned Judicial Magistrate, 1st Court, 6th Court, Medinipur, Paschim Medinipur .

2. In this case, the petitioner has come up before this Court for quashing on the ground that the execution case has been filed under a wrong provision of law and there is no provision under Section 6(5) of the PWDV Act and, therefore, it is not maintainable. That apart he is paying the maintenance regularly considering the fact that the execution case is pending. The petitioner has challenged the very maintainability of the application under Section 12 and 23 of the PWDV Act and therefore the execution case

arising out of said proceeding is also not maintainable. It is further submitted that the marriage is under challenge as he has filed a suit to declare the marriage as null and void. There is no domestic relationship between the parties which is sine qua non for maintain an application under P.W.D.V Act,2005.That apart the order was obtained by practicing fraud as in the order it was mentioned that the petitioner conducted a second marriage when later on that part was corrected without due process of law.

3. Learned advocate appearing on behalf of the opposite party no.1 submits that no amount is being paid to the opposite party no.1 and, therefore, the execution case was filed in the year 2024 and this petition is liable to be dismissed .It is further denied that any fraud was practiced as a typographical error crept in which was later on rectified.

4. Having heard both the learned advocates for the parties, it transpires that the interim order of maintenance was granted on 08th August, 2023 and pursuant to that, the present petitioner was directed to pay an amount of rs 5000/- . The petitioner has claimed that he is paying the maintenance since 2024 however, no documents in support of the same have been furnished before this Court. It is pertinent to mention herein that once the interim order has been passed directing the petitioner to pay maintenance in terms of the provisions of PWDV Act, this Court is devoid of any power to quash such execution proceeding arising out of an order of maintenance, unless the entire proceeding pending before the learned court under Section 12 of the Domestic Violence Act is entirely quashed.

5. It is pertinent to mention herein that the criminal revisional application as filed by the petitioner for quashing of such proceeding being C.R.R NO 3894 /25 has not been entertained by this Court and has been dismissed. Therefore, so far quashing of the present execution case is

concerned, that cannot be passed by this Court in exercise of power under Section 482 of the Code of Criminal Procedure.

6. That apart, the petitioner can very well file an appropriate application before the executing court with necessary document to substantiate that he is paying the amount since 2024. It is submitted that he has already filed the written objection before the learned court.

7. The learned Magistrate is, therefore, directed to dispose of the execution case at the earliest considering the facts and circumstances as discussed above and also ascertaining whether any payment has been made by the petitioner or not.

8. It is apparently clear that the order is passed in the year 2023 and the execution case has been filed in the year 2024 and, therefore, even if for the sake of argument it is considered that certain amount is paid towards maintenance, there is possibility of accumulation of arrear amount which the petitioner is required to be paid. The learned Magistrate is, therefore, directed to consider that aspect of the matter and to give ample opportunity to the petitioner to pay the arrear maintenance, if any.

9. So far the wrong quoting of the provisions of Sections 6(5) of the PWDV Act is concerned, that is a mere nomenclature and that will not change the entire contention of the prayer made therein. However, the learned Magistrate is also directed to consider this aspect of the matter by passing appropriate order. So far the allegation of fraud raised an application is pending under section 340 crpc however on perusal of the order it transpires that the learned court did not consider the said second marriage and it was corrected and the order contains the initial of the officer. The learned Magistrate passed the order of maintenance in favour of wife only so the other fact of having a was also not considered.

10. In view of these facts and circumstances, this Court finds no reason for passing any such order after exercising power under Section 482 of the Code of Criminal Procedure for quashing the execution case pending before the learned trial Court.

11. The revisional application is, thus, dismissed along with the connected application.

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

9. 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.]