

**C.R.R. 4212 of 2024**  
**With**  
**CRAN 1 of 2024**

In Re: - An application under Sections 401 read with Section 482 of the Code of Criminal Procedure, 1973 corresponding under Section 442 read with Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 challenging the impugned order dated 22<sup>nd</sup> July, 2024 passed by the Learned Additional District and Session Judge, 2<sup>nd</sup> Court, Sealdah, South 24 Parganas in connection with Criminal Appeal No. 22 of 2023

**And**

**Sk. Saifuddin**  
**Vs.**  
**Tabassum Firdaus & Anr.**

Mr. Anupam Das,  
Mr. Soupal Chatterjee,  
.... For the Petitioner  
Mr. Gazi Faruque Hossain,  
Sk. Zahir Uddin,  
Md. Tawqueer,  
.... For the opposite parties

The instant application is filed against the impugned order dated 22.07.2024 passed by the learned Additional District and Session Judge, 2<sup>nd</sup> Court, Sealdah, South 24 Parganas passed in connection with Criminal Appeal No. 22 of 2023.

There is sixty days delay in preferring the application explained and delay is condoned.

The respondent/wife filed an application under Section 23(2) of the P.W.D.V Act, 2005 in the Trial Court, Judicial Magistrate 1<sup>st</sup> Class, 6<sup>th</sup> Court Sealdah allowed interim maintenance at a rate of Rs. 2,500/- (Two Thousand Five

Hundred) for the respondent/wife and another Rs. 2,500/- (Two Thousand Five Hundred) for the daughter. While passing the interim order the Trial Court took into consideration the affidavit of assets filed by the parties. The Trial Court also took into consideration in deciding the quantum of interim maintenance that the husband earns Rs. 5000/- (Five Thousand) per month.

The learned Additional Sessions Judge enhanced amount to Rs. 3000/- (Three Thousand) per month for the wife and Rs. 4000/- (Four Thousand) per month for the children without considering declared income of the husband. The learned Additional Sessions Judge expressed opinion that the Trial Court considered that quantum of maintenance in a lower side.

The quantum of maintenance which was considered or under consideration at this stage is interim in nature.

The finding of the Trial Court was tentative in nature only. The parties shall adduce evidence to prove the income, entitlement and requirement of the wife and children to get quantum of maintenance. Prima facie, the Trial Court considered the declared income of the husband. The Trial Court also took into consideration the allegation that the wife is working.

The order passed by the learned Sessions Judge does not show that the materials on record was considered. Accordingly, the order passed by the Learned Additional Sessions Judge is set aside.

The petitioner/husband shall continue the maintenance at the rate of decided by the learned Trial Court in terms of the

order dated 27.06.2023. The learned Trial Court shall adjudicate upon the matter on the basis of evidence adduced without being influenced by this order.

The instant revisional application stands disposed of. In view of the disposal of the revisional application the connected application being CRAN 1 of 2024 is also disposed of.

Department is directed to return the certified copy to the parties upon completion to requisite formalities.

The learned Trial Court is expected to expedite the hearing.

Urgent certified photocopy of this order, if applied for, shall be supplied to the parties upon compliance of all necessary formalities.

**(Sugato Majumdar, J.)**