IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
APPELLATE SIDE

PRESENT:

THE HON'BLE DR. JUSTICE AJOY KUMAR MUKHERJEE

CRR 563 of 2026
With
CRAN 1 of 2026
with
CRR 566 of 2026
With
CRAN 1 of 2026
Sayonee Sil nee Pal
Vs.
Abhisekh Sil

For the Petitioners	:	Mr. Ayan Bhattacharjee, Sr. Adv., Ms. Anirban Dutta Ms. Ayan Mondal
For the Opposite Party	:	Mr. Sandipan Gangully Mr. Prabhakar Chowdhury Ms. Manaswita Mukherjee Ms. Pinky Choudhury
Heard on	:	29.07.2026
Judgment on	:	16.11.2026

Dr. Ajoy Kumar Mukherjee, J.

1. The petitioner herein has assailed the impugned judgments dated 19.11.2025 passed in Criminal revision No. 35 of 2025 and Criminal Revision No. 36 of 2025, whereby the learned court below was pleased to dismiss the Revisional Applications, thereby affirming the impugned orders

dated 27.03.2025 passed in connection with Misc. Execution Case No. 221 of 2024 and Misc. Execution case No. 222 of 2024 by learned Judicial Magistrate 14th Court Alipore.

2. Background of the instant case is that learned Magistrate by its order dated 30.06.2011 directed the opposite party/husband to pay a sum of Rs, 3,000/- per month to the aggrieved person as interim monetary relief within 10th of each succeeding month in a proceeding under section 12 of the PWDV Act being AC no. 2356 of 2010. Being aggrieved by the aforesaid order, OP/husband preferred an appeal before the appellate forum being Criminal Appeal no. 92 of 2011 and by a judgment dated 29.11.2011, learned Appellate Court dismissed the Criminal Appeal and affirmed the order of the trial court dated 30.06.2011. Thereafter, learned Trial court upon conclusion of trial while disposing of the wife's application seeking monetary relief had directed the respondent no. 1 to pay Rs. 15,000/- per month to the aggrieved person towards monetary relief from the date of the order i.e. 03.08.2011 by 10th of every succeeding month.

3. Being aggrieved by the aforesaid order dated 03.08.2011 petitioner/wife preferred an appeal under section 29 of the PWDV Act and the appellate court by an order dated 17.04.2019 disposed of the appeal directing the husband to pay Rs. 15,000/- per month to the aggrieved party for alternative accommodation and also to pay monetary relief to the extent of Rs. 20,000/- per month and further a sum of Rs. 10,00,000/- towards compensation.

4. The wife preferred a Matrimonial Suit being number 2300 of 2011 which was subsequently renumbered as Mat Suit No. 16 of 2012 seeking

dissolution of marriage. In the said matrimonial suit, the wife preferred an application for alimony pendente lite and learned Additional District Judge by his order dated 09.10.2015 directed the opposite party/husband to pay Rs. 15,000/- per month to the petitioner towards pendente lite maintenance. In the said order the civil court had taken into consideration the maintenance already awarded by the Magistrate in the proceeding under the DV Act and thereby in ordering portion he noted that "it is further directed that *the respondent/husband can adjust the maintenance paid to the petitioner/wife in compliance of direction of other court while paying the arrears of maintenance and future maintenance."*

5. The petitioner/wife assailed the aforesaid order of alimony pendente lite dated 09.10.2015 passed by Additional District Judge before this High Court in C.O no. 471 of 2016, when this High Court by an order dated 22.06.2016 modified the said order to the extent that the wife shall be entitled to maintenance at an enhanced rate of Rs. 22,000/- per month from November 2015, and it was also made clear in the said order that "*all other direction of the impugned order dated 9th October, 2015 shall remain unaffected and is affirmed.*"

6. The petitioner/wife made an application thereafter for enhancement of alimony pendente lite and the Civil Court in the aforesaid MAT Suit no. 16 of 2012 directed petitioner herein Abhishek Shil to pay to the petitioner Rs. 35,000/- per month towards alimony pendente lite in place of Rs. 22,000/- from the date of filing of the application.

7. It further appears that the petitioner/wife preferred an application for stay of the aforesaid matrimonial suit for non-payment of maintenance and

while the District Judge stayed the application vide order dated 30.11.2023 made an observation that the above mentioned order dated 29.08.2023 would reflect that the amount of maintenance of pendente lite ordered by that court was in addition to the amount ordered by the court of learned judicial magistrate and the maintenance of Rs. 35,000/- per month was fixed vide order dated 29.08.2023 after adjusting the amount to which the petitioner is entitled to receive by the order passed under the PWDV Act. The wife preferred another application before the Additional District Judge in the aforesaid MAT suit for striking of the defence and amendment of plaint. By an order dated 04.01.2025 learned Judge made it clear that the amount of alimony pendente lite amounting to Rs. 35,000/- was awarded after taking into account the amount already being received by the wife which has been clarified by his earlier order dated 30.11.2023.

8. Since the total amount of Rs. 70,000/- (Rs.35,000/- awarded in PWDV Act and Rs.35,000/- allowed in Matrimonial Suit) was not paid by the husband/opposite party herein the petitioner preferred execution case being M. Execution case no. 222 of 2024 and M. Execution case no. 221 of 2024 in connection of which the aforesaid present Revisional Applications being CRR 566 of 2026 and CRR 563 of 2026 have been filed. Learned Executing Magistrate vide order dated 27.03.2025 held that the opposite party/petitioner herein is liable to make payment of Rs. 35,000/- in favour of the wife, and the wife/petitioner cannot claim Rs. 35,000/- per month in each of the proceeding claiming the same as independent of each other and therefore the husband/opposite party herein is not liable to make payment of Rs. 70,000/- per month.

9. Being aggrieved by the aforesaid observation made by the executing court in the execution proceeding the petitioner herein preferred criminal motion being No. 35 of 2025 and 36 of 2025 which got dismissed by the present impugned orders and thereby affirmed the aforesaid observations of the Executing Court.

10. Being aggrieved by the aforesaid order Mr. Ayan Bhattacharjee learned senior counsel appearing on behalf of the petition submits that the learned Judge ought to have considered that the orders passed in Mat Suit were passed by the Sessions Court being an upper forum, Learned Magistrate in course of executing order of maintenance was not at liberty to make the observation without considering the orders passed by the learned Additional District Judge, 10th court Alipore in Matrimonial Suit No. 16 of 2012. He further argued that the maintenance granted in the divorce proceeding and the proceeding under the PWDV Act are independent of each other and the same has been time and again clarified by the learned Court in the Matrimonial suit vide order dated 30th November, 2023, 4th January, 2025 and 18th March, 2025. He further stressed on the point that while passing the order of maintenance pendente lite vide order dated 29.08.2023 in MAT suit No. 16 of 2012, the Learned Court had considered the fact that the petitioner is entitled to receive maintenance of Rs. 35,000/- under the PWDV Act.

11. Mr. Bhattacharjee further argued that although the order dated 29.08.2023, whereby the amount of maintenance was granted does not specify that the enhancement so made is in addition to the order of maintenance passed in AC 2356 of 2010 but at the same time, the said

order does not speak of any adjustment or setting off any maintenance amount. The subsequent three orders i.e. the orders dated 30.11.2023, 04.01.2025, and 18.03.2025, the concerned court has specified that the two monetary reliefs are not in addition but independent of each other, were not considered by the courts below. He also argued that the courts below have mis-interpreted the direction laid down by the Apex Court in **Rejnesh Vs. Neha** reported in **(2021) 2 SCC 324**. In the said judgement it was observed that if maintenance is awarded to the wife in previously instituted proceeding, she is under a legal obligation to disclose the same in a subsequent proceeding for maintenance which may be filed under another enactment. While deciding the quantum of maintenance in the subsequent proceeding the civil court/family court shall take into account the maintenance awarded in any previously instituted proceeding and determine the maintenance payable to the claimant. In support of his contention, Mr. Bhattacharjee has also relied upon the judgment of **Maurice W. Innis Vs. Lilu Kazrooni @ Lily Arif Seikh** reported in **2026 SCC Online SC 554** where it has been held that the executing court has no jurisdiction to go beyond the decree sought to be executed and it must execute the decree as its stands without changing its terms or assuming the role of a Trial Court to substitute its own view. In this context he further relied upon the judgment of ***Vasudev Dhanjibhai Modi Vs. Rajabhai Abdul Rehman & Others*** reported in **(1970) 1 SCC 670.**

12. Mr. Gangully learned counsel appearing on behalf of the opposite party submits that in the divorce proceeding being MAT Suit No. 16 of 2012 the learned Judge vide order dated 09.10.2015 while taking into

consideration the interim maintenance of Rs. 3,000/- being received by the petitioners/wife in the Domestic Violence proceeding, was pleased to hold that the opposite party/husband would pay her a sum of Rs. 15, 000/- per month as alimony pendente lite. The learned judge was further pleased to direct that the opposite party/husband can adjust the maintenance paid to the petitioner/wife in compliance of direction of other court while paying the arrear amount of maintenance and future maintenance. While the said order was assailed in C.O. No. 471 of 2016, this High Court vide order dated 22.06.2016 was pleased to modify the order of the Learned Additional District Judge to the extent that the petitioner/wife shall be entitled to maintenance at an enhanced rated of Rs. 22,000/- per month from November, 2015. This High Court was further pleased to direct that all other directions of the impugned order shall remain unaffected and are affirmed.

13. The petitioner/ wife preferred an application for enhancement of the alimony pendente lite and learned judge vide order dated 29.08.2023 was pleased to enhance the same to the tune of the Rs. 35,000/- per month as alimony pendente lite in place of Rs. 22,000/- from the date of filing of the enhancement application. The petitioner wife preferred an application for stay of the suit under section 151 of CPC. for non-payment of maintenance and the learned judge while hearing the stay application vide order dated 30th November, 2023 was pleased to observe that the order dated 29.08.2023 would reflect that the amount of maintenance pendente lite ordered by this court was in addition to the amount ordered by the learned court of Judicial magistrate. The amount of Rs. 35,000/- was fixed vide order dated 29.08.2023 after adjusting the amount to which the petitioner

wife is entitled to receive by the order passed under PWDV Act. Therefore the OP/husband's liability to pay Rs. 35,000/- per month as alimony pendente lite is independent of any order passed in any other proceeding under different Act. The wife preferred another application for striking off the defence and an application for amendment of plaint. Learned judge again for reasons best known to him stated that the order for enhancement of alimony pendente lite was passed on 29.08.2023 by this court and the plain reading of the order would disclose that the amount of Rs. 35,000/- per month was passed after taking into account the maintenance amount of Rs. 35,000/- per month ordered under the PWDV Act i.e. further amount which was awarded after taking into account the amount already being received. Thus, the amount of previous proceeding was considered and the amount of Rs. 35, 000/- per month was ordered after adjustment and setting off. In the absence of any order of maintenance in any other proceeding, the amount of alimony pendente lite would have been much more. This issue has already been clarified by the order dated 30th November, 2023. Such observation was made by the said court going against the order of this court passed in C.O. 471 of 2016. Mr. Gangully submits that the order impugned does not call for any interference as it correctly interpreted the factual position along with law and therefore the present application is liable to be dismissed.

14. In the judgment of ***Rajnesh vs. Neha and another,*** reported in **(2021) 2 SCC 324** the Apex Court observed in paragraph 128.1 that where successive claims for maintenance are made by a party under different statutes the court would consider an adjustment or set off, of the amount awarded in the previous proceeding(s) while determining whether any

further amount is to be awarded in the subsequent proceeding. It is also made clear in the said judgment at paragraph no. 128.2 that it is mandatory for the applicant to disclose the previous proceeding(s) and the orders passed therein in the subsequent proceeding.

15. In the instant case while the concerned Additional District judge in the Matrimonial Suit observed in his order dated 09.10.2015 that respondent/husband can adjust the maintenance paid to the petitioner/wife in compliance of direction of other court while paying the arrears of maintenance and future maintenance and at the same time it further appears that when the petitioner/wife preferred Revisional Application before this High Court against the amount of Rs. 22,000/- awarded by way of alimony pendente lite, this High Court while modifying the said order dated 9th October, 2015 had only enhanced the quantum of maintenance from Rs. 15,000/- per month to Rs. 20,000/- per month but all other direction of the impugned order remained unaffected and affirmed.

16. In this context Mr. Gangully on behalf of the opposite party strenuously argued that the operative part of the order dated 22.06.2016 passed in C.O 471 of 2016 by which this High Court increased the maintenance amount form Rs. 15,000/- to Rs. 22,000/- had set the controversy at rest and made it clear that the petitioner herein cannot claim separate maintenance amount in two separate proceedings but she is supposed to get the higher amount of maintenance among the two and not the summation of maintenance awarded in separate proceeding.

17. I am not agreeable with the aforesaid argument made by learned counsel for the opposite party in view of the fact that said observation made

by the High Court though states that all other directions of the impugned order shall remain unaffected and thereby the observation of the order dated 09.10.2015, that the husband can adjust the maintenance amount paid to the wife in other proceedings can be subject to adjustment, is confined only to the above mentioned enhancement made by the High Court.

18. If it is not so then the same Additional District Judge on the basis of opposite party's prayer could not have enhanced the maintenance pendente lite amount to the tune of Rs. 35,000/- and thereby ought not to have observed vide his order dated 30.11.2023 that under changed circumstances the maintenance pendente lite is to be enhanced upon considering the high income of the respondent. He further observed that the order dated 29.08.2023 would reflect that the amount of the maintenance pendente lite ordered by the said Court was in addition to the amount ordered by the court of learned Judicial Magistrate. It is equally true that when such observation was made by the Additional District judge on 30.11.2023, neither party had challenged the said observation and thereby it attained its finality. Therefore one thing is clear that while the Additional District Judge ordered to make payment of Rs 70,000/-, he had taken into account the maintenance amount awarded in other proceeding in compliance with paragraph 128.1 of the judgment of **Rajnesh Vs. Neha (supra).**

19. The other aspect of the matter is that on perusal of the income tax return annexed with the affidavit and liabilities, it appears that for the assessment year 2021- 2022 the opposite party's total annual income form salary was Rs. 38,95,446/-. Even the pay slip issued by the company of the

opposite party discloses that his monthly income was Rs. 2,34,917/- for the month of April 2022. Therefore the general monthly expenses of the opposite party as given in Colum no. 7 of his affidavit of assets and liabilities which is Rs. 1,42,000/- per month, if deducted then also it appears that the amount as awarded on the basis of explanation and interpretation given by the concerned court below which is amounting to Rs. 70,000/- in all cannot be said to be excessive or exorbitant, considering the law that she is entitled to same status that she used to get, if she were at her matrimonial house.

20. The other important issue which pertains to the instant case is that by the impugned order dated 27.03.2025 by which the executing court disposed of the execution proceeding deciding on his own that the petitioner is entitled to get only Rs. 35,000/- and not Rs. 70,000/- is suffering from perversity and arbitrariness in view of the well settled principle of law that the Executing Court cannot go beyond the original order, which has clearly mentioned that the opposite party will pay Rs. 35,000/- each in two separate proceedings without having any adjustment. The concerned executing court ought to have considered that such observation was made by a higher forum who held that the proceedings are independent to each other and the same has been clarified by the higher forum in its order passed in the matrimonial suit vide order dated 30.11.2023, 04.01.2025 and 18.03.2025. It clearly reflects from the order dated 29.08.2023 passed in MAT Suit no. 16 of 2012 that the concerned court had considered the fact that the petitioner/wife is entitled to receive monetary order of Rs. 35,000/- under PWDV Act. Therefore though in the order dated 29.08.2023, concerned Additional District Judge did not specify that the enhancement of

the maintenance amount, so made is in addition to the order of maintenance passed in AC 2326 of 2010, but in the subsequent aforesaid three orders, it has been specially made clear that the two monetary reliefs given in two proceedings are independent of each other.

21. The Appellate court while affirming the judgment of the Executing court did not at all give any reason for such affirmation. Therefore, I am constrained to hold that the order impugned passed by the Executing Court is perverse, cryptic and was passed without keeping in mind that the Executing Court has no jurisdiction to go beyond the original order of maintenance sought to be executed nor has any jurisdiction to review or interpret the same in his own way but such court must execute the decree as its stands without changing its terms or assuming the role of a trial court to substitute its own view ***Maurice W. Innis Vs. Lily Kazrooni @ Lily Arif Shaikh*** reported in **2026 SCC OnLine SC 554**, ***Vasudev Dhanjibhai Modi Vs. Rajabhai Abdul Rehmanand other*** reported in ***(1970) 1 SCC 670***

22. In such view of the matter **CRR 563 of 2026** is allowed. The impugned order and judgment dated 19.11.2025 passed in Criminal Revision No. 36 of 2025 and 35 of 2025 by learned Additional Session Judge FTC-3 and the impugned order dated 27.03.2025 passed in connection with Mis. Execution case no. 221 of 2024 and 222 of 2024 passed by learned Judicial Magistrate, 4th Court, Alipore, which pertains to the observation that the *opposite party herein is liable to make payment of only Rs. 35,000/- per month to the petitioner and not Rs. 70,000/-* is hereby set aside.

23. The order of the additional District judge dated 30.11.2023 which pertains to the direction that the amount of maintenance pendente lite, ordered by the Additional District Judge was in addition to the amount ordered by the court of learned judicial magistrate in the PWDV Act proceeding is hereby affirmed.

24. In view of above both the applications being no. **CRR 563 of 2026** and **CRR 566 of 2026** hereby stand disposed of.

Urgent Xerox certified photocopies of this Judgment, if applied for, be given to the parties upon compliance of the requisite formalities.

(DR. AJOY KUMAR MUKHERJEE, J.)