

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
APPELLATE SIDE**

Present:-

The Hon'ble Justice Partha Sarathi Sen

C.R.R. No.1347 of 2024

With

CRAN 1 of 2024

CRAN 2 of 2025

CRAN 3 of 2025

Ajit Kumar Nayak & Ors.

Vs.

The State of West Bengal & Anr.

For the petitioners	:	Mr. Abhishek Halder Mr. Asis Kumar Choudhary Ms. Madhurima Basu
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For the opposite party no.2	:	Mr. Soumya Nag Mr. Abhinav Rakshit
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Heard on	:	21.01.2026
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Judgment on	:	21.01.2026
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Partha Sarathi Sen, J.:-

In Re : CRAN 1 of 2024

1. At the time of hearing, learned advocate appearing on behalf of the petitioners submits before this Court that the prayer made in CRAN 1 of 2024 has practically become infructuous with the lapse of time.
2. Learned advocate for the petitioners thus, submits that she does not want to press CRAN 1 of 2024.
3. In view of the submissions made, CRAN 1 of 2024 is dismissed for non-prosecution.

In Re : CRR 1347 of 2024

1. In this criminal revisional application the legality, propriety and correctness of the order dated 17.10.2019 as passed in AC 1930 of 2016 by the learned Judicial Magistrate, 7th Court, Alipore, South 24 Parganas and the judgment and order dated 23.02.2024 as passed in Criminal Appeal No.250 of 2019 by the learned Additional Sessions Judge, Fast Track 2nd Court, Alipore, South 24 Parganas are assailed.
2. By the impugned order dated 17.10.2019 the learned Judicial magistrate while disposing an application under Section 23 of the Protection of Women from Domestic Violence Act, 2005 (hereinafter referred to as “the said Act” in short) directed the respondent no.1 /

revisionist to pay Rs.5000/- per month to the aggrieved person / opposite party no.2 herein and also passed an order of protection for her peaceful stay at her shared household, particulars of which has been mentioned in the said order.

3. The respondent of the said case being AC 1930 of 2016 unsuccessfully challenged the said order dated 17.10.2019 before the First Appellate Court which affirmed the said order dated 17.10.2019 by its impugned judgment and order dated 23.02.2024.
4. At the time of hearing, Mr. Halder learned advocate appearing on behalf of the revisionist at the very outset draws attention of this Court to the impugned order dated 17.10.2019 as passed in AC 1930 of 2016 by the Trial Court. It is submitted that in a proceeding under Section 12 of the said Act learned Trial Court while disposing the petition under Section 23 of the said Act for interim relief practically relied upon the chargesheet in connection with Maheshtala P.S. Case No. 171 of 2016 as submitted under Section 498A IPC and under Section 3/4 of the Dowry Prohibition Act and came to a finding that the petitioner and the respondent before him were in a domestic relationship within the meaning of Section 2(f) of the said Act. It is further submitted by Mr. Halder that based on such finding the said Trial Court mechanically

allowed the prayer for interim relief without coming to a finding as to whether the petitioner before him was an aggrieved person or not.

5. It is further submitted by Mr. Halder that the First Appellate Court while deciding the criminal appeal no.250 of 2019 practically echoed the version of the Trial Court inasmuch as the said Appellate Court found no error on the part of the Trial Court in relying upon the chargesheet as submitted in connection with Maheshtala P.S. Case No.171 of 2016. At this juncture, Mr. Halder took me to the annexure to CRAN 3 of 2025 being a copy of the judgment dated 10.06.2025 as passed by the Judicial Magistrate, 10th Court, Alipore, South 24 Parganas in BGR Case No.1460 of 2016. It is submitted that on perusal of the said judgment dated 10.06.2025 it would reveal that the present revisionists were acquitted from the charges under Section 498A IPC and Section 3/4 of the Dowry Prohibition Act and they were released from their respective bail bonds.
6. It is further submitted by Mr. Halder that in view of the fact that the present revisionists were acquitted from the said criminal case, the chargesheet upon which the learned Trial Court as well as the First Appellate court relied upon while disposing the petition under Section 23 of the Said Act lost its significance and, therefore, the said two orders which were impugned before this Court may be set aside since

apart from the chargesheet the said Trial Court as well as the First Appellate Court did not rely upon any material to come to a finding that the opposite party no. 2 herein is an aggrieved person and there existed a domestic relationship between the revisionist no.1 and the opposite party no.2.

7. Per contra, Mr. Nag duly assisted by Mr. Rakshit, learned advocates for the opposite party no. 2 strongly contended that acquittal of the present revisionists in a case under Section 498A IPC cannot have any bearing over the impugned orders in as much as a proceeding under the said Act and a proceeding under Section 498A IPC stand on a different footing where not only the subject matter of adjudication are distinguishable but also the mode and degree of proof are different.
8. It is further submitted that in the event a favourable order is passed in this criminal revision based upon the judgment of acquittal as passed in BGR case no. 1460 of 2016 that would tantamount to miscarriage of justice.
9. It is further submitted by Mr. Nag that before the learned Trial Court in a proceeding under Section 12 of the said Act, prima facie, materials have been placed to substantiate that the revisionist no.1 and the opposite party no.2 were in a domestic relationship and the opposite

party no.2 is an aggrieved person. It is submitted by Mr. Nag and there is hardly any scope to interfere with the orders impugned.

10. For effective adjudication of the instant *lis* this Court at the very outset proposes to look to some of the definitions of the said Act.
11. Section 2(a) defines the 'aggrieved person' while Section 2(f) defines 'domestic relationship'. Section 2(a) and 2(f) of the said Act are reproduced hereinbelow inevitably:-

"2(a) "aggrieved person" means any woman who is, or has been, in a domestic relationship with the respondent and who alleges to have been subjected to any act of domestic violence by the respondent;

2(f) "domestic relationship" means a relationship between two persons who live or have, at any point of time, lived together in a shared household, when they are related by consanguinity, marriage or through a relationship in the nature of marriage, adoption or are family members living together as a joint family;"

12. Keeping in mind the aforementioned two definitions if I look to the petition under Section 12 of the said Act as filed by the opposite party no.2 herein before the learned Trial Court, it reveals that it is the case of the opposite party no.2 herein that marriage between the opposite party no.2 and the revisionist no.1 was solemnized on 17.04.2015 as per Hindu Rites and Customs and soon thereafter she started to lead a conjugal life with her husband at her matrimonial home.

13. She stated further that during her stay at her matrimonial home she was subjected to torture at the instance of her husband as well as the family members of her matrimonial home who are the revisionists before this Court and she has got no independent income of her own and she is fully dependent upon her parents since she has not been maintained by her husband. In the written objection as filed on behalf of the respondents all such allegations have been denied.
14. On careful perusal of the order impugned dated 17.10.2019 it appears that the learned Trial Court while disposing the petition under Section 12 of the said Act for interim relief duly considered such facts and come to a prima facie finding based on the chargesheet submitted under Section 498A by Maheshtala P.S. that there exists a prima facie domestic relationship between the petitioner and the respondent before him.
15. On perusal of the impugned judgement and order dated 23.02.2024 as passed by the First Appellate Court, this Court finds that the First Appellate Court also relied upon the chargesheet as submitted by the Maheshtala P.S. for coming to a logical conclusion regarding, prima facie, domestic relationship in between the appellant and the respondent and thus, declined to interfere with the order impugned before him.

16. On perusal of the judgment as passed in BGR Case no. 1460 of 2016 arising out of Maheshtala P.S. Case no. 171 of 2016 dated 24.03.2016 under Section 498A IPC read with Section 3/4 of the Dowry Prohibition Act as well as the chargesheet as submitted in connection with the said P.S., it appears that the accused persons of the said criminal case who are the revisionists before this Court were acquitted under Section 248(1) Cr.P.C. from the charges under Sections 498A IPC and 3/4 of the Dowry Prohibition Act.
17. This Court is in agreement with the submission of Mr. Nag that acquittal of the present revisionists from the aforementioned BGS case cannot have any bearing in a proceeding under Section 12 of the said Act inasmuch as the nature of two cases are quite different and mode and degree of proof in those two cases are also distinguishable.
18. However, on perusal of the impugned orders as passed by the learned Trial Court as well as the First Appellate Court it reveals that in a proceeding under Section 23 of the said Act the said two courts while considering the interim relief of the petitioner (opposite party no.2 herein) practically relied upon the chargesheet as submitted in connection with Maheshtala P.S. case no.171 of 2016 and upon no other documents.

19. Such being a position there cannot be any iota of doubt that on the day of disposal of the instant revisional application the chargesheet as submitted against the present revisionists became non-est and, therefore, it would have been just and proper for this Court to set aside the orders impugned and to remand the matter afresh before the Trial Court for consideration of the interim relief on the basis of the materials before it as on this date. However, it is made known to this Court that before the learned Trial Court, AC 1930 of 2016 has already reached at the stage of hearing and thus, in considered view this Court it would be highly unjust if this Court passes an order of remand for consideration of the interim relief afresh.
20. In view of such, this Court while disposing the instant revisional application set aside the order dated 17.10.2019 as passed by the learned Judicial Magistrate, 7th Court, Alipore, South 24 Parganas in AC 1930 of 2016 as well as the judgment and order dated 23.02.2024 as passed in Criminal Appeal No.250 of 2019 as passed by the learned Additional District and Sessions Judge, Fast Track 2nd Court, Alipore, South 24 Parganas.
21. This Court further directs the Judicial Magistrate, 7th Court, Alipore, South 24 Parganas to conduct the hearing of AC 1930 of 2016 being a proceeding under Section 12 of the Protection of Women from Domestic

Violence Act, 2005 in *de die in diem* manner without granting any adjournment to either sides. This Court further directs the Judicial Magistrate, 7th Court, Alipore, South 24 Parganas to pass judgment in AC 1930 of 2016 positively within 31st March, 2026.

22. The time limit as fixed by this Court is peremptory and mandatory.
23. In the event the presiding officer of the Judicial Magistrate, 7th Court, Alipore, South 24 Parganas is not available either on account of transfer or for any other reason, learned Chief Judicial Magistrate, Alipore, South 24 Parganas, shall transfer the case being AC 1930 of 2016 either to his own file or to the file of any competent Judicial Magistrate under his jurisdiction for due compliance of this Court's order.
24. For ends of justice this Court directs further that the present revisionist no.1 shall go on paying Rs.5000/- per month as interim maintenance to the opposite party no.2 herein up to the 31st March, 2026.
25. It is further made clear that while disposing of the instant criminal revisional application, this Court has not gone into the merits of the application under Section 12 of the said Act and thus, all points are kept open.
26. CRR 1347 of 2024 is thus, disposed of.

27. With the disposal of the instant revisional application CRAN 2 of 2025 and CRAN 3 of 2025 are also disposed of.
28. All parties shall act on the basis of the server copy of this judgment duly downloaded from the official website of this Court.
29. Liberty is given to the present revisionists to communicate the server copy of this judgement to the Judicial Magistrate, 7th Court, Alipore, South 24 Parganas as well as to the learned Chief Judicial Magistrate, Alipore, South 24 Parganas and the said courts are directed to act on the basis of the server copy of this judgement.
30. Department is hereby directed to communicate a copy of this judgement to the learned Sessions Judge, Alipore, South 24 Pargans, who on receipt of the same shall ensure that the order of this Court is complied with by the said Magistrates in its letter and spirit.
31. Urgent Photostat certified copy of this judgment, if applied for, be given to the parties upon compliance of all necessary formalities.

(Partha Sarathi Sen, J.)