

12.02.2026
Sl. no. 27
Ct. No. 42
P.M.

CRR 2431 OF 2025
Rumki Bhuiyan @ Rumki Bhunia @ Rumki Biswas.
- Vs -
Bhaskar Bhuiyan.

Mr. Sumanto Chakraborty,
Mr. S. Bhattacharya
... for the petitioner

Mr. Arka Ranjan Bhattacharya,
Mr. Swarup Ranjan Kar
... for the opposite party

1. Present petition has been filed for challenging the order of learned Additional Sessions Judge, 3rd Court, Barrackpore passed in Criminal Appeal No. 1 of 2024 whereby the appeal filed against the order of the learned Magistrate dated 16th December, 2023 under Domestic violence Act was upheld.
2. Learned counsel for the petitioner submits that the learned Judicial Magistrate and learned Additional Sessions Judge proceeded on the wrong premises that there was no domestic violence and secondly that since the maintenance has been granted under Section 125 Cr.P.C. no relief can be granted under the Domestic Violence Act.
3. Learned counsel submits that finding regarding domestic violence at the interim stage amounts to pre-judging issue and will prejudice the petitioner.

4. Learned counsel also referred Section 26 of the Domestic Violence Act, 2005, which provides that maintenance under Domestic Violence Act can be granted in addition to the maintenance granted under any other Act.
5. Learned counsel for the opposite party/husband has vehemently opposed the petition and submits that the order of the learned Judicial Magistrate and learned Additional Sessions Judge are well reasoned and there is no interim stay.
6. The Court has considered the submissions. This Court considers that finding of the learned Metropolitan Magistrate as well as learned sessions Judge regarding domestic violence at this stage may amount to pre-judging the issue.
7. In addition thereto the effect of Section 26 of the Domestic Violence Act, 2005 has also not been taken into account in the order of the learned Judicial Magistrate and learned Additional Sessions Judge and, therefore, both the orders are liable to be set aside.
8. The matter is remanded back to the learned Judicial Magistrate. Learned Judicial Magistrate shall decide the petition under domestic Violence Act on merits after taking the evidence of both parties in

accordance with law, expeditiously without being influenced by its order dated 16th December, 2023 and order of the learned Additional Sessions Judge dated 27th March, 2025.

9. With this observation this revisional application stands disposed of.
10. Urgent photostat certified copy of this order, duly applied for, be given to the parties upon compliance of all usual requisite formalities..

(Dinesh Kumar Sharma, J.)