

**CRR 4005 of 2022**

**Monalisha Gupta  
Vs.  
The State of West Bengal & Ors.**

1. When the matter is called on for hearing today, none appears to represent the petitioner. No accommodation has been sought, nor has any step been taken on her behalf. A perusal of the previous order sheets reveals that the petitioner has remained completely unrepresented on multiple consecutive occasions. This matter has been languishing on the files of this Court since 2022, and on the last date of hearing, it was adjourned explicitly to afford a final opportunity to the petitioner to advance her arguments. Despite such repeated opportunities, and despite the matter being old and pending for a considerable duration, the petitioner has chosen not to appear or take any steps today.
2. It is a well-settled principle that while the doors of justice must remain accessible, the machinery of the High Court cannot be kept at a standstill indefinitely due to the absolute negligence or structural default of a litigant. This Court has an institutional obligation to ensure the expeditious disposal of cases and to prevent the clogging of its dockets with abandoned litigations. In view of such persistent non-appearance and lack of diligence, this Court deems it fit not to

adjourn the matter any further. In order to ensure that an old matter is not kept pending unnecessarily, this Court takes up this revisional application for final decision on its merits, on the basis of the comprehensive pleadings, grounds, and judicial orders available on record.

3. This criminal revisional application, registered as C.R.R. No. 4005 of 2022, has been preferred by the petitioner-wife, Monalisha Gupta, under Section 482 of the Code of Criminal Procedure, 1973. The petitioner seeks the quashing and setting aside of Order No. 2 dated 20th September, 2022 passed by the learned Sessions Judge, Howrah, in Criminal Appeal No. 76 of 2022. By the impugned order, the learned lower appellate Court was pleased to stay the operation of an interim protection order dated 11th August, 2022 passed by the learned Judicial Magistrate, 1st Court, Howrah, in connection with Misc. Case No. 440 of 2022, pending the final disposal of the statutory appeal.
4. The factual matrix emerging from the records indicates that the petitioner married the opposite party no. 2, Vishal Shah, on 19th February, 2018 under the provisions of the Special Marriage Act, 1954. According to the petition, she was subjected to physical and psychological torture by her husband and his immediate relatives over unmet demands for a premium motor vehicle and additional cash dowry.

The petitioner outlines a harrowing account of travel to Washington D.C., USA, on 11th March, 2018, where she claims she was abandoned at an airport lounge for over six hours, subsequently confined to an empty flat in Elkridge, Maryland, routinely assaulted, and deprived of food after she discovered evidence of O.P. 2's extra-marital live-in relationship with a foreign national.

5. The record further reveals a dense web of cross-litigations spread across multiple jurisdictions. Upon her forced return to India, the petitioner initiated Criminal Complaint Case No. 852 of 2018 under Section 498A IPC and the Dowry Prohibition Act before the learned SDJM, Muzaffarpur, Bihar, where a warrant of arrest remains outstanding against the O.P. 2- husband. She also instituted Complaint Case No. 1009 of 2018 under the DV Act, wherein she secured an interim maintenance order of ₹30,000/- per month and a residence order, which was subsequently affirmed by the Hon'ble Patna High Court in Cr. Misc. No. 42978 of 2019. Further cases include Criminal Complaint Case No. 444 of 2020 at Muzaffarpur, FIR No. 79 of 2021 at Golabari P.S. (Howrah) under Section 379 IPC for theft of documents, and an NGR Case No. 1209 of 2022 for threats of violence. Parallely, the husband's passport was impounded and revoked by the Ministry of External Affairs to facilitate his extradition from the

USA, an executive action that was upheld by the Hon'ble High Court at Calcutta in WPA No. 4743 of 2020 on 15th January, 2021.

6. The immediate trigger for the present revisional conflict arises from a counter-case initiated by the mother-in-law, Gayatri Shah, being Complaint Case No. 446(C) of 2020 under Sections 323, 342, and 352 IPC against the petitioner, pending before the learned Judicial Magistrate, 1st Court, Howrah. In those proceedings, the petitioner preferred a miscellaneous application under the DV Act, registered as Misc. Case No. 440 of 2022. On 11th August, 2022, the learned Trial Magistrate passed an interim order protecting the petitioner from eviction and actively directing the personal appearance of the fugitive husband by 15th September, 2022, under the procedural framework of Section 28(2) of the DV Act read with Order III Rule 1 of the CPC and Section 317 of the Cr.P.C. On 15th September, 2022, the Trial Court further directed various authorities to expedite the extradition of the husband from the USA.
7. Aggrieved by the directions contained in the order dated 11th August, 2022, the opposite parties preferred a statutory appeal, being Criminal Appeal No. 76 of 2022, before the learned Sessions Judge, Howrah. By the impugned Order No. 2 dated 20th September, 2022, the learned appellate Court, upon hearing the appellant and the learned Panel Public

Prosecutor for the State, stayed the operation of the Trial Court's order dated 11th August, 2022 until the final disposal of the appeal. In doing so, the learned Sessions Judge evaluated the statutory framework, noting that under Section 28(1) of the DV Act, proceedings are governed by the Code of Criminal Procedure, and under the proviso to Section 126(2) of the Code, if a party is wilfully avoiding service or neglecting court attendance, the appropriate remedy is to proceed *ex-parte* rather than halting the proceedings to compel physical presence through mechanisms that potentially conflict with the code.

8. In her revisional petition, the petitioner has raised several grounds, primarily contending that the learned appellate Court committed a grave error in passing an *ex-parte* stay without hearing her, and that the contesting opposite party had fraudulently suppressed the active extradition orders dated 15th September, 2022 to obtain a blanket stay on a protective residence order.
9. Having carefully evaluated the entire record, the components of the impugned order, and the grounds raised in the petition, this Court concludes that the materials available on record are wholly insufficient to quash the impugned stay order. It is a fundamental principle of appellate jurisprudence that a Court vested with the statutory power to hear an appeal against an interim order has the ancillary and

discretionary power to preserve the status quo or stay the operation of the challenged directives pending a full final adjudication. This is necessary to prevent the statutory appeal itself from being rendered entirely infructuous.

10. The learned Sessions Judge, Howrah, has provided sound statutory reasoning based on the interplay between the DV Act and the Code of Criminal Procedure to justify why an interim stay was warranted. The stay granted is merely temporary and is explicitly tied to the duration and disposal of the main statutory appeal. No patent illegality, jurisdictional excess, or procedural perversity can be discerned in the exercise of such discretionary power by the lower appellate court. The petitioner has completely failed to demonstrate that the temporary preservation of the status quo by the appellate court has resulted in an unmitigated or irreparable miscarriage of justice that would necessitate the invocation of this Court's extraordinary powers under Section 482 of the Code. Therefore, considering the total lack of merit in the grounds urged, coupled with the persistent non-appearance of the petitioner, it is proper that this revisional application be dismissed.

11. Consequently, the instant criminal revisional application, C.R.R. No. 4005 of 2022, is hereby dismissed. The impugned interim order of stay dated 20th September, 2022 passed by the learned Sessions

Judge, Howrah, in Criminal Appeal No. 76 of 2022 is left undisturbed.

12. Since the main statutory appeal has been pending since 2022, the learned appellate Court/Sessions Court before whom Criminal Appeal No. 76 of 2022 is pending is explicitly directed to proceed with the matter and dispose of the said appeal as expeditiously as possible, strictly on its own merits and in accordance with law, without being influenced by any of the factual observations made by this Court.
13. Interim order, if any, passed in this revision application, stands vacated.
14. There is no order as to the cost.
15. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

**(Uday Kumar, J.)**