

Criminal Appeal No. 2 of 2025
CNR No. WBHW060001282025

Present : Mr. Mintu Mallick, Additional Dist. & Sessions Judge, Amta, Howrah.
(J.O. Code : WB00694)

Order No. 2 dated 20.08.2025

Heard the Learned Advocate appearing for the Appellant submitting that in connection with an application under Section 24 of the Hindu Marriage Act being Misc. Case No. 5 of 2023 a sum of Rs. 5000/- (Rupees Five Thousand) was awarded by this Court as alimony pendente lite. However, on subsequent occasion the Learned Judicial Magistrate, Amta, passed the impugned order directing the Appellant/husband to pay a sum of Rs.2000/- (Rupees Two Thousand Only) per month as interim maintenance in terms of provision of Section 23 of P.W.D.V. Act in connection with Misc. Case No. 8 of 2022 under Section 12 of P.W.D.V. Act.

The contention of the Learned Advocate for the Appellant is that the Learned Judicial Magistrate, Amta, while awarding the sum of Rs. 2000/- (Rupees Two Thousand Only) per month, did not consider that the appellant/husband has already been burdened with a sum of Rs. 5000/- (Rupees Five Thousand Only) as alimony pendente lite.

The Learned Advocate appearing for the Appellant further submits that the impugned order dated 21.05.2025 passed by the Learned Judicial Magistrate, Amta, does not indicate whether the said amount of Rs.2000/- (Rupees Two Thousand Only) be paid by the Respondent/husband in addition to Rs. 5000/- (Rupees Five Thousand Only) or inclusive of Rs. 5000/- (Rupees Five Thousand Only) which has already ordered by this Ld. Court in Misc. Case No. 5 of 2023 arising in Mat Suit No. 430 of 2022.

Perused the impugned Order passed by the Learned Judicial Magistrate, Amta, Howrah. The order appears not to be a reasoned one, at least to the prima facie satisfaction of this Court. The order does not indicate whether the said amount of Rs.2000/- (Rupees Two Thousand Only) payable by the Opposite party, herein the Appellant, in addition of Rs. 5000/- (Rupees Five Thousand Only) awarded by this Court in Misc. Case No. 5 of 2023.

This Court has reason to believe that the Appellant herein has put forward a debatable case involving substantial question of law and fact.

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:: 2 ::

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The Learned Advocate for the Appellant further submits that there is a delay of 19 days in filing the instant Appeal.

Perused the petition. The petition filed under Section 5 of the Limitation Act explaining delay of 19 days of filing the instant Criminal Appeal seems to be bonafide one. Accordingly the delay is condoned and the instant Criminal Appeal be brought on record as admitted.

The Appellant is directed to serve a copy of the application to the other side and thereby to file an Affidavit before the matter is taken up next for hearing of the instant Appeal.

Fixing 03.11.2025 for filing Affidavit showing service of Notice to the other side and hearing.

Meanwhile there is an order of stay as to the further operation of the the impugned order dated 21.05.2025 passed by the Learned Judicial Magistrate, Amta, Howrah, in Misc. Execution Case No. 40 of 2024, till disposal of the instant Appeal.

Let the Original Case Record in connection with Misc. Execution Case No. 40 of 2024 be called for from the Learned Judicial Magistrate, Amta, Howrah.

Let a copy of this order be transmitted to the Learned Judicial Magistrate, Amta, Howrah, to act accordingly.

Dictated & corrected by me

Additional Sessions Judge,
Amta, Howrah

Additional Sessions Judge,
Amta, Howrah