

C-02 of 2012
C-1726 of 2014

Order dt. 04.10.2023.

Today is fixed for hearing of the petition U/s.25(2) of the PWDV Act filed by the complainant on 16.05.23 for enhancement of the interim maintenance earlier awarded by this Court.

Both parties are represented by the Ld. Advocate.

It also appears that one W.O has been filed by the O.P in this respect.

Heard both the sides. Considered. Perused the instant application and the W.O as well as other materials on record ad the impugned order. It is striking enough to find out that, not having preferred to file a separate Misc Case, the Ld. Advocate has filed the instant application with the instant case which was originally filed U/s.12 of the PWDV Act. Although Section 29 and 28 of the PWDV Act empowers the Magistrate to adopt its own procedure, the prudence comments that when there is settled protocol of practice that separate Misc Cases are filed U/s.127 of the Cr.P.C, as adjudication of such application needs a complete trial, analogously in the instant matter this application cannot be disposed of in its present form as that would unnecessarily create complications.

Considering the above, I think that the instant application cannot be disposed of by this Court in its present form, rather the Ld. Adv for the petitioner is directed to prefer a separate Misc Case on the self same ground.

Hence, the instant application is hereby dismissed and the petitioner is given the liberty to file a separate Misc Case on the self same ground afresh.

Thus, the instant application is disposed of.

Dictated by,

A.C.J.M.

ACJM., Bidhannagar.

