

M. Case no. 26/2022

Order dt. 11.05.2023

Today is fixed for for hearing.

Both the sides are present. Case record is taken up for hearing in interim prayer. At the very outset Ld. Advocate for the petitioner submits that one interim order in the form of maintenance to the tune of Rs. 6500/- was passed in favour of the petitioner wife and minor child i.c.w C. Case no. 820 of 2019 dtd. 01.10.2021 directing the respondent no. 1 to pay the interim award but the matter on record is respondent no. 1 is the father-in-law in the said application filed under the P.W.D.V Act, therefore due to typographical error in the application of the maintenance direction to pay the maintenance was passed upon the father-in-law instead of husband that is the respondent no. 2 in the said application filed under P.W.D.V Act. In the mean time respondent preferred an appeal application pending before the Ld. ADJ, 4th Court, Barasat for disposal claiming that in father-in-law is not bound to pay the maintenance for the petitioner wife. Therefore, in spite of having an order for maintenance petitioner is deprived of the fruit of the said order passed under the beneficial legislation of Protection of women from Domestic Violence Act. Under the aforesaid facts and circumstance petitioner seek monetary relief in the form of interim award in the present case initiated on the basis of application filed us. 125 CrPC.

Heard the Ld. Advocate for the opposite party. Who submits that there is a serious mistake in Para-14 wherein petitioner stated that one case punishable us. 306 IPC has been pending which is practically impossible. Therefore petitioner who amended the present application.

Admitting the said arrear petitioner submits that the said typographical error in formal in nature and can be determining the present factor.

Heard both the sides . It appears that petitioner has already been awarded a monetary relief. However liability to pay the maintenance has been casted upon the father in law . Accordingly, having heard both concern I am of the view that entertaining the application for interim monetary relief in the form of maintenance against the Op husband as prayed in this case at this stage would create further complication. Accordingly case is adjourned.

Petitioner is at liberty to file amended copy of application by the next date, rectifying the typographical error in Para-14 of the application filed under section 125 Cr.P.C. as stated above.

Fix 15.06.2023 for hearing.

D/C by me;