

WBSP050017772020



AC Case no. 692 of 2020
(CNR No. WBSP05-001777-2020)

Sangita Ghosh **- Aggrieved Petitioner**
versus.

Rajeev Ghosh and 2 Others **- Respondents**

Present : Sri Indranil Mitra, Judicial Magistrate, 3rd Court, Alipore, South 24-Parganas
(J.O Code - WB 1502)

Dated : Monday, the 17th Day of August, 2026

Order Dated : 17.08.2026

Today is fixed for exparte order.

One Sangita Ghosh (hereinafter referred to as the **aggrieved petitioner**) filed an application before the Ld. ACJM, Alipore under Section 12 of the Protection of Women from Domestic Violence Act, 2005 (herein after referred to as **PWDV Act**) against respondent no.1, her husband Rajeev Ghosh and other respondents being her in-laws. The case was transferred to this Court for disposal.

Heard argument on behalf of the petitioner on earlier date fixed for hearing.

Accordingly, the record is taken up for passing exparte order.

The brief facts of the case is that aggrieved petitioner is the legally married wife of the Respondent Rajeev Ghosh and the said marriage took place on 20.01.2014 according to Special marriage Act and social ceremony took place on 21.01.2014 according to Hindu rites and customs. During marriage, several expensive articles and gifts were demanded by the respondents. After marriage, the said articles were placed in the custody of respondent no.3 on the latter's assurance. Out of the said wedlock, one child namely Aarika was born on 18.07.2018. Since after her marriage, the respondents tortured the petitioner both mentally and physically on further demand of dowry towards purchasing a flat at Rajarhat and Car. On refusal by the petitioner, she was tortured. In the period of May, 2014, the respondent no.1 had to go to America and the petitioner accompanied him. The aggrieved petitioner was tortured by respondent no.1 on the instigation by respondent no.2 and 3. The aggrieved returned to India with respondent no.1 on 16.11.2019. The aggrieved also instituted a written complaint against the respondents being Garfa P.S Case no. 510 dated 17.11.2019 u/s

307/498A/406/120B/34 IPC. It is the contention of the aggrieved that the respondent no.1 never paid any maintenance towards the child.

The aggrieved petitioner contended that she has no source of income of her own. It is also the contention of the aggrieved that the Respondent no.1 is BCA/MCA in Information Technology and earns a salary of Rs. 7 lakhs in Indian currency. That, the aggrieved petitioner prayed for:-

i) a protection order u/s 18 of PWDV Act directing upon the Respondents not to perpetrate torture or acts of domestic violence upon the petitioner/Aggrieved person.

ii) a residence order to the effect that Rs. 50,000/- is claimed as alternative accommodation :

iii) Return the stridhan articles belonging to the petitioner.

c) Order of monthly relief to the tune of Rs. 1,00,000/-

monetary relief u/s 20 of PWDV Act directing upon the respondent to pay -

a) Medical expenses for the Aggrieved Party to the tune of Rs. 5,000/- per month.

b) Directing the Respondent to pay Rs.2,00,000/- per month as expenses for food, clothes, lodging and other basic necessities.

d) Order u/s 21 of the Act by granting custody of minor child of the petitioner..

v) Compensation order u/s 22 to the tune of Rs, 50,00,000/-(Rupees twenty five lakhs) only for commission of acts of domestic violence, physical and mental torture upon the petitioner/aggrieved person committed by the Respondent.

Notice was sent to the respondents. The notice was duly served and the respondents appeared by filing vakalatnama. Interim order of monetary relief was passed after hearing and the record was fixed for evidence. The respondent husband preferred an appeal and the same was affirmed. Thereafter, the record was again fixed for evidence after serving a notice of the put up petition to the other side. The respondents did not appear and the record was fixed exparte and exparte order was passed *vide* order dated 05.07.2025. Being aggrieved, the respondent husband preferred an appeal and the Appellate Court was pleased to set aside the order giving opportunity to the respondent husband to contest the case. The record was fixed for evidence. But on the date fixed, the respondent husband did not appear and the record was again fixed for exparte hearing. The record was thereafter heard in exparte and the evidence was also recorded in exparte.

EVIDENCE ADDUCED

The petitioner was examined as **PW 1**. She was not cross-examined as the matter proceeded ex-parte. No other evidence was adduced by her.

POINTS FOR DETERMINATION

- 1) Whether the petitioner is the aggrieved person ?
- 2) Whether the aggrieved person lived a domestic relationship with the respondents ?
- 3) Whether the aggrieved person has lived with the respondents in a shared household ?
- 4) Whether the aggrieved person was subjected to domestic violence by the respondents ?
- 5) Whether the aggrieved person is entitled to the reliefs as sought for under the PWDV Act ?

DECISION WITH REASONS

The object of the Protection of Women from Domestic Violence Act, 2005 is to provide for more effective protection of the rights of women guaranteed under the Constitution who are victims of violence of any kind occurring within the family and for matters connected therewith and incidental thereto. The Bombay High Court in the case of ***Ishpal Singh Kahai vs. Ramanjeet Kahai, 2011 SCC Online Bom 412*** reiterated that-

“the object of the DV Act is to grant statutory protection to the victims of violence in the domestic sector who had no proprietary rights. The Act provides for security and protection of a wife irrespective of her proprietary rights in her residence. It aims at protecting the wife against violence and at the prevention of recurrence of the acts of violence.”

For the purpose of determining whether the points that need the Court's consideration are established or not, it is necessary for the Court to consider and analyze the evidence on record. Only the petitioner was produced as witness and she deposed as **PW-1**. During her evidence, PW-1 stated almost the same facts that she stated in her application.

Since domestic violence has been alleged by the petitioner, the burden of proving the same lies on her by virtue of *Section 101* of the Indian Evidence Act, 1872.

Section 101 of the Indian Evidence Act, 1872 very clearly states that “Whoever desires any Court to give judgment as to any legal right or liability dependent on the existence of facts which he asserts, must prove that those facts exist.”

When a person is bound to prove the existence of any fact, it is said that the burden of proof lies on that person.”

It is a fact that to determine whether the petitioner is entitled to the reliefs, it must first be proved that ‘domestic violence’ has taken place upon the petitioner and the petitioner is the aggrieved person. The very term ‘domestic violence’ clearly indicates that ‘violence’ alone would not be enough and ‘violence’ to become ‘domestic violence’, the following criteria, amongst others, must be present:

- i) both the complainant and the respondent must form domestic relationship; and
- ii) both the parties live or have, at any point of time, lived together in a shared household.

The existence of *domestic relationship* and *shared household* can be established from the testimony of the aggrieved petitioner as she deposed as PW-1. The petitioner stated that after marriage, she started residing with the respondents at her matrimonial home. The testimony of PW-1 being un rebutted shows the existence of *domestic relationship* between the petitioner and the respondents and resultantly there is evidence of *shared household* between them.

Now, it becomes necessary to decide whether ‘domestic violence’ has taken place. Domestic violence includes – physical abuse, sexual abuse, verbal and emotional abuse and economic abuse. PW-1 deposed about incidents of domestic violence being inflicted upon her by respondents. Since the case proceeded ex parte and the testimony of PW-1 remained unchallenged, no strict proof is necessary and domestic violence can be said to have been inflicted upon the aggrieved. The fact of domestic violence also gets corroborated from the Domestic Incident Report (DIR) filed by the Protection Officer. Taking into consideration the unchallenged testimony of PW-1 and the DIR, it can be said that the existence and infliction of ‘domestic violence’, upon the aggrieved by the respondents, is prima facie established.

Section 3 of PWDV Act deals with ‘Domestic Violence’ and **Explanation II** of the section 3 is an important provision of law for establishing domestic violence by taking into consideration the overall facts and circumstances. It is a fact that overall facts and circumstances of the case cannot be ascertained only from the version of the petitioner. Respondents’ version deserves equal importance. But in the instant case, as the case proceeded ex parte against the respondents due to their non-appearance after order of Ld. Appellate Court, the respondents’ version, being written objection and

affidavit of assets and liabilities, although in the record, cannot be taken into consideration. Here, it is pertinent to mention, as the respondents did not contest the case, it can be said that the respondents did not make themselves heard although opportunity was provided to them. Therefore, the aggrieved petitioner has been successful in proving the fact of existence of *domestic relationship* between her and the respondents and also the fact that the petitioner lived with the respondents in a *shared household* and that she was subjected to *domestic violence*.

Therefore, from the discussions made above let me answer the points that has come up before the Court for consideration. From the above discussion, it appears that the petitioner is an '*aggrieved person*'. **Section 2(a)** of the PWDV Act, 2005 defines the term '*aggrieved person*' '*means any woman who is, or has been, in a domestic relationship with the respondent and who alleges to have been subjected to any act of domestic violence by the respondent.*' Having discussed about *aggrieved person* it is necessary to throw some light on the term *respondent*. **Section 2 (q)** of PWDV Act defines the term '**Respondent**'. The section defined the term respondent '*means any adult male person who is, or has been, in a domestic relationship with the aggrieved person and against whom the aggrieved person has sought any relief under this Act.*' It also follows that the said aggrieved person has lived with respondents in a '*domestic relationship*' in '*shared household*' and the petitioner was subjected to '*domestic violence*' by the respondents as it appears from the un rebutted evidence of the petitioner. **Section 2(f)** defines the term '**domestic relationship**'. The section defines domestic relationship '*means a relationship between two persons who live, or have at any point of time, lived together in a shared household, when they are related by consanguinity, marriage, or through a relationship in the nature of marriage, adoption or are family members living together as a joint family.*' **Section 2(s)** defines the term '**shared household**'. The Section defines shared household '*means household where the person aggrieved lives or at any stage has lived in a domestic relationship either singly or along with the respondent and includes such a household whether owned or tenanted either jointly by the aggrieved person and the respondent, or owned or tenanted by either of them in respect of which either the aggrieved person or the respondent or both jointly or singly have any right, title, interest or equity and includes such a household which may belong to the joint family of which the respondent is a member, irrespective of whether the respondent is a member, irrespective of whether the respondent or the aggrieved person has any right, title or interest in the shared household.*' Therefore, all the points before the Court for consideration are answered in the positive. As such, the petitioner is entitled to reliefs in the form of protection orders. But to what extent the aggrieved is entitled to the reliefs of residence orders, monetary relief, custody orders and compensation orders has to be gathered from the appreciation

and meticulous perusal of the affidavit of assets and liabilities filed by the aggrieved petitioner as per the mandate of the Hon'ble Supreme Court in the case of ***Rajnesh vs. Neha (Criminal Appeal No. 730 of 2020)***. Even the quantum of monetary relief has to be gathered from the affidavit.

In the affidavit of assets and liabilities filed by the aggrieved person, the aggrieved person declared that she has educational qualification of B.Com but declared having no income and being a housewife. With respect to the income of the respondent no.1, the aggrieved person in her affidavit declared that the respondent is working and has an income of Rs 6 lakh Indian currency. It is also declared by the aggrieved that the respondent husband is under H1B Visa and earns 5,000 to 6,000 dollars. It is a fact that the burden of proving husband's income lies upon the husband, being a fact within special knowledge. But in the instant case, the respondent husband did not appear to contest the case after the case was restored to its original file from the exparte board by the order of the Ld. Appellate Court. As such, the aggrieved person declaring the income of the respondent husband, by way of affidavit, must be taken to be true. The reason being, facts declared in the affidavit are within the knowledge and belief of the deponent. But in support of her declaration in affidavit, as to husband's income, the aggrieved petitioner did not file any documents. As such, the actual income received by the respondent husband cannot be ascertained by this Court. However, from the documents available in the record, it is clear that the respondent no. 1 is employed presently in the Cognizant US in view of the communication received from Cognizant India dated 08.08.2025. Accordingly, it may be presumed that the respondent husband is an able-bodied person having capacity to earn and earns the income as declared by the aggrieved.

Further, from the affidavit of Assets and Liabilities filed by the aggrieved petitioner it appears that the aggrieved has monthly expenditure of Rs. 1,10,000/-. The aggrieved declared the heads of accounts in which she incurs such expenditure. The aggrieved separately declared the monthly expenditures for the child to be Rs. 60,000/- by giving the heads of accounts. The aggrieved also filed photocopy of documents showing the expenses for the child. In her affidavit of assets, it is not declared by the aggrieved as to who is presently bearing the said expenses of the child. Besides the expenditure for the child, the monthly expenditure declared by the aggrieved petitioner in respect of herself is high in juxtaposition to no income declaration of the aggrieved petitioner in her affidavit. Moreover, as no documents of the monthly expenditures incurred are filed by the aggrieved petitioner. As such, this Court cannot come to the conclusion with respect to the actual monthly expenses incurred by the aggrieved person. This raises doubts and questions the credibility of the expenditure declared by the aggrieved incurred for self. Even if the expenses so declared are taken to be true, a

question arises as to from which source the petitioner is meeting her high expenditure. But the question remains unanswered either from the affidavit or from the evidence of the aggrieved petitioner.

Be that as it may, keeping in mind the object and purpose of the provision of law, the declaration as to the income of the respondent no.1, this Court feels it necessary to pass appropriate orders securing the object of the provision. As no documents are available before the Court to come to a conclusion as to the expenses of the aggrieved person, it must, however, be kept in mind that the amount of monetary relief, so ordered, shall not be penurious for the respondent husband and should not impose a burden on the said respondent but at the same time, the amount so awarded shall be such that does justice to the aggrieved person and the child. Moreover, the respondent no.1 is under an obligation to provide the aggrieved person a standard of life in which the aggrieved can live with dignity with her child. Upon consideration of the affidavit of assets and liabilities, the present market scenario, the standard of living and the object of the legislation, this Court is of the opinion that the **aggrieved person/petitioner, Sangita Ghosh**, is entitled to monetary relief to the tune of Rs. 30,000/- per month only from the respondent, that is, her husband, **for herself** and Rs. 50,000/- per month for the **minor daughter**, from the date of filing of the instant case.

Therefore, considering the entire facts and circumstances, the evidence on record, the instant case is decreed *exparte* in favour of the petitioner.

Hence it is,

ORDERED

that the application filed by the aggrieved person **Sangita Ghosh** is hereby **allowed in part** and the instant case is decreed *exparte* in favour of the aggrieved petitioner without any order as to cost.

The aggrieved petitioner is entitled to **protection orders and residence orders** against the respondents. The **respondents** are **directed** to :

- (i) Prohibit themselves from communicating with the aggrieved person, in any form, whatsoever, including personal, oral or written or electronic or telephonic contact.
- (ii) Prohibit themselves from causing violence to the aggrieved person. The respondent should also prohibit themselves from abusing the aggrieved petitioner in any form, verbal or physical.
- (iii) The respondent no.1 is directed to arrange for an *alternative accommodation* for the aggrieved petitioner and her minor child of the standard which the aggrieved enjoyed in her shared household and in which she along with her minor child can reside with dignity. If the

said alternate accommodation is a rented accommodation, then the respondent no.1 shall bear the liability of the payment of rent of the said alternate rented accommodation as per the amount of rent agreed upon and the rented accommodation must be situated in a gated-society. Be it mentioned, if the aggrieved petitioner chooses to reside in her paternal house, then the liability of the respondent no.1 for arranging alternate accommodation do not arise. Respondent shall not cause any disturbance to the aggrieved petitioner in her alternate accommodation.

- (iv) The respondents shall handover the aggrieved petitioner all her stridhan articles. However, the stridhan articles shall be handed over to aggrieved in presence of, **the Protection Officer, the O/C Garfa P.S and Bidhannagar East P.S** or any of his subordinate not below the rank of Sub-Inspector, only after the aggrieved person produces necessary receipt thereof, as per the list enclosed in her petition, and the same shall be handed over after proper identification and the entire procedure shall be conducted and completed in accordance with law. It is further required to be mentioned that at the time of handing over of such stridhan articles to the aggrieved, care must be taken to see that no articles belonging to the exclusive ownership and possession of the respondents are handed over.

The aggrieved petitioner is also entitled to **monetary reliefs**. The respondent no.1 is directed to pay monetary relief to the tune of a total of Rs. **80,000/- per month**, to the petitioner, i.e Rs. **30,000/- per month** only **for herself** and **Rs. 50,000/- per month** only for the **minor daughter**, from the **date of filing of the instant case**.

The respondent shall make payment of the amount of monetary relief within the 10th day of every succeeding English calendar month. In default, the aggrieved petitioner shall be at liberty to put the arrear amount in execution in accordance with law.

The aggrieved petitioner is also entitled to **custody orders** u/s 21 of the PWDV Act. The minor daughter, **Aarika Ghosh**, is presently in the care and custody of her mother and the said minor daughter is growing in the care and protection of her mother. The child's welfare being the paramount consideration, this Court is of the opinion that for the betterment of the child, aggrieved petitioner shall have the **custody of her minor daughter till she attains majority (18 years)**.

There is no order as to compensation.

The **Protection Officer, South 24-Parganas** is also directed to assist the aggrieved petitioner so that the orders of the Court are properly enforced in favour of the petitioner.

The **O/C Garfa P.S** is directed to render assistance to the aggrieved petitioner in implementation of the orders of this Court as and when contacted by the aggrieved petitioner.

The case is thus disposed of exparte.

Bench Clerk is directed to make necessary entries in the relevant register.

Upload the order in CIS.

Let a copy of this order be supplied to the **aggrieved petitioner** free of cost in accordance with law.

Let a copy of this order be sent to the **Protection Officer**, South 24-Parganas Kolkata for information and compliance.

Let a copy of this order be supplied to the **O/C Garfa P.S** for information and compliance.

Typed and corrected by me,

Sd/-

Indranil Mitra
Judicial Magistrate, 3rd Court, Alipore,
South 24-Parganas