

February 12, 2025
(295-296) ARDR

CRR 3476 of 2024

Tithi De Adhikary @ Ththi Adhikary
Vs.
The State of West Bengal & ors.

With

CRR 3477 of 2024

Tithi De Adhikary @ Ththi Adhikary
Vs.
The State of West Bengal & ors.

Adv. Anshunath Chakraborty,
...for the petitioner in both the matters.

Affidavits of service filed on behalf of the petitioner are taken on record.

None appears for the private opposite parties despite service.

Since CRR 3477 of 2024 pertains to the same issue as in CRR 3476 of 2024, both the applications are taken up for consideration together and disposed of by a common order.

The petitioner who is the wife of the 2nd opposite party has assailed the judgment and order dated 15th June, 2024 passed by the learned Additional District & Sessions Judge, 2nd Court, Uluberia, Howrah in Criminal Appeals no. 4 of 2021 and 3 of 2021 arising out Misc. Case no. 174 of 2022 pending before the learned Additional Chief Judicial Magistrate, Uluberia, Howrah.

Learned counsel for the petitioner submits that by an order passed on 21st August, 2021 in Misc. Case no. 174 of 2020, learned Additional Chief Judicial Magistrate, Uluberia disposed of the application filed by the petitioner under Section 23 read with Section 20 of the Protection of Women from Domestic Violence Act directing the opposite party to pay interim monetary relief to the tune of Rs.18,000/- per month.

Both the parties preferred separate appeals against the said order, the petitioner seeking enhancement of the amount and the opposite party seeks reduction thereof. Learned Appellate Court, by an order passed on 30th September, 2022 in Criminal Appeal no. 4 of 2021 filed by the opposite party, reduced the amount of interim maintenance to Rs.7131/- per month. The petitioner approached this Court in CRR 4357 of 2022 against the said order and by an order passed on 27th March, 2024, a coordinate Bench of this Court set aside the order of the learned Additional District & Sessions Judge. Ultimately the appeal filed by the opposite party being Criminal Appeal no.4 of 2021 was allowed and the interim monetary relief was reduced to Rs.7131/- per month from the date of order and an additional amount of Rs.5,000/- per month was directed to be paid to the petitioner by the opposite party till disposal of the miscellaneous case. The appeal filed by the petitioner being Criminal Appeal no.3 of 2021 was dismissed.

Learned counsel submits that though the petitioner was employed earlier, she was compelled to resign from her job with effect from 9th June, 2023.

I have heard the learned counsel appearing for the petitioner.

In the order impugned, the learned Appellate Court has taken into consideration several judgments of the Hon'ble Supreme Court including the authority in *Rajnesh vs. Neha* reported in (2021) 2 SCC 324 and has finally come to a conclusion that the opposite party be directed to pay Rs.7131/- per month to the petitioner along with an additional sum of Rs.5,000/- per month.

It appears from the documents on record that the petitioner is no longer in service and has no independent income of her own at present. The net salary of the opposite party as in January, 2021 as

appears from the pay slip was Rs.78,308/-. Therefore it can be inferred that there has been enhancement of said salary with passage of time. It is trite law that maintenance/interim maintenance awarded to the wife/petitioner should be sufficient, not only to make her both ends meet, but also to enable her to lead a life equivalent to the standard of living which she enjoyed while she was residing with her husband/opposite party.

Upon consideration of the entire material on record including the take home pay of the opposite party as well as the present financial status of the parties, this Court is inclined to hold that the interim monetary relief granted to the petitioner should be enhanced to Rs.25,000/- per month for her sustenance till the application under the 2005 Act is disposed of.

In view of the above the revisional applications are allowed.

The judgments delivered by the learned Additional District & Sessions Judge, 2nd Court, Uluberia on 15th June, 2024 in Criminal Appeal no. 4 of 2021 and 3 of 2021 are set aside. The order dated 21st August, 2021 passed by the learned Additional Chief Judicial Magistrate, Uluberia in Misc. Case no.174 of 2020 be modified to the extent that the opposite party shall pay interim monetary relief to the petitioner to the tune of Rs.25,000/- per month from the date of the application till disposal of the applicaiton under the 2005 Act.

The learned trial Court shall arrive at a decision in the miscellaneous case independently upon consideration of the submission made on behalf of the parties as well as material on record and without being influenced by any observation which may have been made in this order.

Learned counsel for the petitioner submits that the opposite party may be directed to pay the amount of interim monetary relief to the bank account of the petitioner. Learned counsel furnishes the bank account of the petitioner as hereunder:

“Name : Tithi Adhikary
UCO Bank,
IFSC – UCBA0000267.
A/c. No. 02670100018688”

Urgent certified website copy of this order, if applied for, be given to the parties, upon compliance with all requisite formalities.

(Suvra Ghosh, J.)

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