

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
APPELLATE SIDE**

**PRESENT:
THE HON'BLE JUSTICE UDAY KUMAR**

CRR 1625 OF 2024

**SANJIBANI DAS SAMANTA @ SANJIBONI
-VS-
STATE OF WEST BENGAL & ANR.**

For the Petitioner : Mr. Amit Ranjan Pati
Ms. Swastika Chowdhury
Ms. I. Nag
Mr. Avijit Chatterjee

For the Opposite Party No.2 : Mr. Rajdatta Chattopadhyay
Mr. Sagata Basu Sarkar
Ms. Risha Das
Mr. Kunal Ghosh
Mr. Somnath Guha

Reserved on : 28.08.2026

Pronounced on : 28.08.2026

UDAY KUMAR, J.: –

1. Justice and equity do not merely dwell in the abstract declarations of statutes; they find their truest manifestation in the scrupulous protection of the helpless and the dependent. When a domestic relationship stands fractured, the legislative shield provided under welfare enactments for women and children must not be blunted by

arbitrary judicial reductions untethered from the realities of financial capacity and proof. The present revisional application brings to the fore the delicate yet imperative balance required while evaluating interim maintenance under the Protection of Women from Domestic Violence Act, 2005 (hereinafter referred to as the '**DV Act**' in short) where obfuscation of income by an earning spouse cannot be permitted to prejudice the sustenance of a minor child.

2. This revisional application has been preferred by the petitioner-wife under Section 482 of the Code of Criminal Procedure, seeking the quashing of the judgment and order dated 2nd January, 2024, passed by the 6th Court of the learned Additional Sessions Judge, Paschim Medinipur, in Criminal Appeal Case No. 51 of 2022 arising out of Misc. Case No. 22 of 2022 under Section 12 of the DV Act, whereby the interim maintenance of the minor daughter of the parties was reduced from Rs. 9,000/- to Rs. 8,000/- per month, bringing the total interim maintenance payout down from Rs. 16,000/- to Rs. 15,000/- per month.
3. The genesis of the present *lis* traces back to a proceeding initiated by the petitioner-wife under Section 12 of the DV Act, giving rise to Misc. Case No. 22 of 2022 before the learned Additional Chief Judicial Magistrate, Kharagpur. During the pendency of the main proceeding, the petitioner pressed for interim maintenance for herself and her minor daughter under Section 23(2) of the said DV Act. The learned Judicial Magistrate, Kharagpur, vide a considered order dated 29th October, 2022, evaluated the rival claims, noting that while both parties fell

short of producing original documentation to conclusively establish exact income and expenses, the opposite party no. 2-husband was an able-bodied person possessing a sound financial background. The learned Magistrate, taking judicial notice of the soaring prices of essential commodities, the social status of the parties, and documentary material reflecting that the husband had previously drawn a lucrative overseas salary of 5,000 Dirhams, equivalent to roughly Rs. 1,08,000/- in Indian currency, from Etisalat Technology Services, awarded interim maintenance of Rs. 7,000/- per month to the wife and Rs. 9,000/- per month to the minor daughter, directing payment from the date of filing of the Misc. Case with arrears to be cleared in instalments.

4. Aggrieved by the quantum of interim maintenance, the husband preferred an appeal under Section 29 of the DV Act, registered as Criminal Appeal Case No. 51 of 2022 before the Court of the learned Sessions Judge, Paschim Medinipur, which was subsequently transferred to the 6th Court of the Additional Sessions Judge, Paschim Medinipur. The learned Sessions Judge, vide the impugned judgment and order dated 2nd January, 2024, partially allowed the appeal by reducing the interim maintenance of the minor daughter from Rs. 9,000/- to Rs. 8,000/- per month. Dissatisfied with this appellate reduction, the wife has approached this Court via the instant revisional application.
5. Learned counsel appearing for the petitioner contends with considerable force that the impugned appellate order was rendered

whimsically, perfunctorily, and without any meaningful evaluation of the affidavits of assets and liabilities of the parties. Drawing specific attention to page 45 of the revisional application, learned counsel emphasizes that the opposite party no. 2 was drawing a monthly salary of 5,000 Dirhams in September, 2019, which translated to a substantial sum of Rs. 1,20,000/- in Indian currency. It is further argued that the learned Sessions Judge completely lost sight of the fundamental canon that a person commanding such substantial remuneration cannot experience a sudden, drastic downward financial spiral without cogent evidentiary proof.

6. The second limb of his submission is that a reduction of maintenance without assigning reasons therefor amounts to perversity. The daughter's maintenance order, slashed by Rs. 1,000/- arbitrarily without a shred of reasoning, manifests a blatant non-application of mind and he accordingly prays for quashing of the appellate order, restoration of the trial court's order, and direction to the trial court to expedite the final adjudication of the said Misc. Case upon recording evidence of the parties.
7. Per contra, learned counsel appearing for the opposite party-husband defends the legality of the appellate order, submitting that a minor reduction of Rs. 1000/- is well within judicial discretion and invulnerable to challenge. However, demonstrating a pragmatic and fair approach, learned counsel consents to the prayer of the petitioner for expeditious trial and disposal of the substantive maintenance

application by the learned trial court after taking oral and documentary evidence from both sides.

8. Upon hearing the learned counsels for the parties, the questions that fall for determination in the present revisional application are:

firstly, whether the learned Sessions Judge has committed an error of law and procedure in reducing the interim maintenance of the minor daughter from Rs. 9,000/- to Rs. 8,000/- per month in the absence of any foundational evidence or cogent reasoning; and

secondly, whether the appellate judgment suffers from a patent non-application of mind, warranting interference under the revisional jurisdiction of this Court.

9. I have bestowed my anxious consideration upon the rival submissions and scrutinized the materials on record, including the impugned appellate judgment and the underlying trial court's order. A critical appraisal of the appellate judgment reveals a glaring internal contradiction and legal infirmity. The learned Sessions Judge explicitly recorded that the appellant-husband had failed to disclose specific details of his occupation, omitted to produce salary slips to substantiate his plea of a meagre monthly income of Rs. 15,000/-, and clearly suppressed his true financial standing. In doing so, the appellate court though has correctly acknowledged that the husband's conduct attracted adverse inferences regarding concealment of income, however, having diagnosed this concealment, the appellate court paradoxically

proceeded to reduce the obligation of the opposite party towards the daughter's maintenance from Rs. 9,000/- to Rs. 8,000/- per month without assigning any intelligible rationale or pointing to any material change in circumstances.

- 10.** It is a settled principle of matrimonial jurisprudence, underscored by the Hon'ble Supreme Court in landmark pronouncements such as *Rajnish v. Neha* [(2021) 2 SCC 324], that maintenance proceedings are imbued with a social welfare objective. When an able-bodied spouse deliberately conceals his actual earnings, the evidentiary burden shifts heavily onto him under Section 106 of the Indian Evidence Act to disclose his true financial capacity. An appellate court cannot reward obfuscation by scaling down maintenance without supporting rationale. Reducing a minor child's sustenance without supporting reasons directly contravenes the touchstone of a reasoned judicial order. The learned Sessions Judge committed a grave error of record and law by interfering with the well-reasoned discretion of the trial court.
- 11.** In light of the preceding discussions and the glaring absence of reasons in the impugned appellate judgment, I am fully convinced that the appellate judgment and order dated 2nd January, 2024 cannot be sustained in law and is liable to be quashed.
- 12.** Accordingly, the revisional application being C.R.R. 1625 of 2024 stands allowed.
- 13.** The impugned judgment and order dated 2nd January, 2024 passed by the 6th Court of the learned Additional Sessions Judge, Paschim Medinipur, in Criminal Appeal Case No. 51 of 2022 is hereby set aside,

and the interim maintenance order dated 29th October, 2022 passed by the learned Additional Chief Judicial Magistrate, Kharagpur in Misc. Case No. 22 of 2022 stands fully restored.

- 14.** There shall be no order as to costs.
- 15.** The Department, with regard to correcting the cause title, is directed to comply with the direction of this Court dated 12th August 2026, to rectify the status of the connected application being CRAN 1 of 2024 from 'pending' to 'disposed'.
- 16.** The learned trial court is directed to proceed with utmost expedition toward the hearing and final disposal of the main maintenance application after recording the oral and documentary evidence of both parties, preferably within a period of six months from the date of communication of this order.
- 17.** Interim order, if any, stands vacated.
- 18.** Case diary and Trial Court Records, if there be any, be transmitted to the learned Trial Court forthwith.
- 19.** All parties shall act on the server copy of this judgment duly downloaded from the official website of the Calcutta High Court.

(Uday Kumar, J.)