

(2025) 12 OHC CK 0045

Orissa HC

Case No: Criminal Miscellaneous Case No. 5 Of 2023

Monalisha Sahoo

APPELLANT

Vs

Anshuman Naik

RESPONDENT

Date of Decision: Dec. 4, 2025

Acts Referred:

- Protection Of Women From Domestic Violence Act, 2005-Section 2(a), 12, 18, 19, 20, 20(6), 21, 22, 23, 23(2), 28, 28(1), 28(2), 29, 31
- Code Of Criminal Procedure, 1973-Section 125, 128, 397, 401, 482
- Evidence Act, 1872-Section 41

Hon'ble Judges: Chittaranjan Dash, J

Bench: Single Bench

Advocate: A. Dash, B.P. Mohanty

Final Decision: Allowed

Judgement

Chittaranjan Dash, J

1. Heard learned counsel for the Parties.

2. By this application, the Petitioner seeks to set aside the impugned order dated 15.04.2021 passed by the learned 1st A.D.J.-Cum-A.S.J.(P), Rourkela in Criminal Appeal No.7 of 2021, wherein the court declined to grant the interim monetary relief to the Petitioner subsequent to the period upon dissolution of the marriage of the Petitioner and the Opposite Party.

3. The background facts of the case, as borne out from the record, are that the Petitioner is the legally married wife of the Opposite Party, their marriage having been solemnised on 10.07.2011 at Rourkela. In July, 2012, the Petitioner returned to Rourkela where the Opposite Party was then employed as a Manager with M/s. Adhunik Metaliks and was also possessing ancestral property at village Karamdihi in the district of Sundargarh. The Petitioner joined St. Mary School as a teacher in September, 2013 and continued to reside with the Opposite Party. In March, 2017 she

joined a coaching institute; however, such engagement was consistently objected to by the Opposite Party. It is alleged that on 23.12.2018, the Petitioner came to know that the Opposite Party was maintaining an illicit relationship with another woman and when she confronted him, he became furious and physically assaulted her. Thereafter, the Opposite Party allegedly continued to harass the Petitioner even at her workplace, leading to her dismissal from service. On 30.12.2018, the Opposite Party left the matrimonial home with his belongings and started residing at his native place at Karamdihi, from where he continued to harass the Petitioner over phone and otherwise, thereby causing her mental distress.

Being aggrieved by the alleged acts of cruelty, the Petitioner instituted a proceeding for divorce, which came to be allowed by the learned Judge, Family Court, Rourkela by decree dated 16.10.2019 in C.P. No.69 of 2019 dissolving the marriage. Thereafter, the Petitioner filed an application under Section 12 of the Protection of Women from Domestic Violence Act, 2005 (hereinafter 'PWDV Act') before the learned S.D.J.M., Panposh seeking monetary and other reliefs. She also filed an application under Section 23(2) of the PWDV Act seeking ad-interim monetary relief. The learned S.D.J.M., Panposh, by order dated 16.02.2019, taking note of the averments in the application under Section 12 and the affidavit filed under Section 23(2), granted an ex parte interim order directing the Opposite Party to pay Rs.7,000/- per month towards ad-interim monetary relief till conclusion of the proceeding, payable within ten days of every succeeding month, and further restrained him from committing any domestic violence. According to the Petitioner, the Opposite Party did not comply with the aforesaid interim order.

Consequently, she filed an application under Section 128 Cr.P.C. on 14.12.2020, registered as Criminal Misc. Case No.407 of 2020, for enforcement of the interim order and realisation of arrears, which she stated to be Rs.1,54,000/- for 22 months as on November, 2020. In the said proceeding, the learned S.D.J.M., Panposh, by order dated 18.01.2021, issued notice to the Opposite Party and upon his non-appearance, issued distress warrant as well as conditional NBW for realisation of the arrear amount. The Opposite Party thereafter preferred Criminal Appeal No.7 of 2021 before the learned 1st Additional Sessions Judge, Rourkela, which culminated in the impugned order dated 15.04.2021 modifying the enforcement order by restricting the Petitioner's entitlement to interim maintenance only up to the date of decree of divorce, i.e., 16.10.2019. The Petitioner, challenging the legality of the said order, has approached this Court, asserting that the ex parte interim monetary relief granted on 16.02.2019 has never been assailed by the Opposite Party before the appellate forum.

4. Mr. Dash, learned counsel for the Petitioner-Wife, submits that the impugned order proceeds on an erroneous presumption of facts as well as law. It is contended that the Protection of Women from Domestic Violence Act, 2005 is a self-contained and independent statute providing distinct remedies to an aggrieved person, and orders passed in any other proceeding, including a decree of divorce, do not ipso facto curtail or extinguish the reliefs available under the said Act. It is urged that the Appellate Court committed a 12 of the PWDV Act is still pending adjudication and the Opposite Party-husband has never challenged the interim order dated 16.02.2019 passed by the learned S.D.J.M., Panposh. Learned counsel further submits that the Appellate Court has misconstrued the scope and import of the PWDV Act in holding that the Petitioner could not claim

interim monetary relief beyond the date of dissolution of marriage, when the statute itself recognises rights arising out of past domestic relationship. It is his submission that so long as the main application remains sub judice, the interim order dated 16.02.2019 continues to operate, and cannot be nullified or truncated indirectly in an appeal arising out of proceedings under Section 128 Cr.P.C. It is asserted that the Appellate Court exceeded its jurisdiction in entertaining and allowing an appeal against a mere order issuing notice and initiating enforcement steps under Section 128 Cr.P.C., as no appeal lies against such an order. On these grounds, it is argued that the impugned order is unsustainable in law and liable to be set aside.

5. Mr. Mohanty, learned counsel appearing for the Opposite Party-Husband, submits that the present application under Section 482 Cr.P.C. is not maintainable inasmuch as the impugned order is, in essence, revisable and the proper remedy available to the Petitioner is by way of a criminal revision, not through invocation of the inherent jurisdiction of this Court. He contends that the Petitioner has sought to bypass the statutory forum and that such an attempt is impermissible in law. It is urged that the learned 1st Additional Sessions Judge has rightly exercised jurisdiction vested in him and has correctly appreciated the legal position governing proceedings under the PWDV Act. He asserts that the Appellate Court has correctly restricted the period of maintenance up to the date of the decree of divorce, as the Petitioner cannot seek benefits arising out of a domestic relationship which stood severed on 16.10.2019. According to him, the findings of the Appellate Court are in consonance with law and do not warrant any interference by this Court.

6. At the outset, it is necessary to clearly appreciate the nature and character of the orders that form the subject matter of challenge in the present proceeding. The order dated 16.02.2019 was passed by the learned S.D.J.M., Panposh in D.V. Misc. Case No.28 of 2019 in exercise of powers under Section 23(2) of the PWDV Act, granting ad-interim monetary relief to the Petitioner. This order, being one passed under the P.W.D.V. Act, continues to operate unless varied, modified or set aside in accordance with the procedure contemplated under the Act.

Subsequently, upon the Opposite Party's alleged non-compliance with the said interim order, the Petitioner instituted Criminal Misc. Case No.407 of 2020 before the same court, invoking Section 128 of the Code of Criminal Procedure for enforcement of arrears of maintenance. The learned S.D.J.M., Panposh, by order dated 18.01.2021 in the said proceeding, recorded the sufficiency of service of notice on the Opposite Party, and in view of his continued non-appearance, directed issuance of distress warrant and conditional non-bailable warrant for realisation of the arrears.

The Opposite Party thereafter preferred Criminal Appeal No.7 of 2021 before the learned 1st Additional Sessions Judge, Rourkela, invoking Section 29 of the P.W.D.V. Act, wherein the order dated 18.01.2021 passed in the enforcement proceeding under Section 128 Cr.P.C. was assailed. The impugned judgment dated 15.04.2021, therefore, emanates from an Appeal filed under Section 29 of the P.W.D.V. Act, though the order appealed against was one arising from a proceeding under Section 128 Cr.P.C. and not from any substantive order passed under the P.W.D.V. Act.

Findings of the Learned Appellate Court

7. The judgment dated 15.04.2021 of the learned 1st Additional Sessions Judge, Rourkela shows that the husband approached the appellate forum solely to challenge the order dated 18.01.2021 by which the learned SDJM, Panposh had issued distress warrant (DW) and non-bailable warrant (NBW) for realisation of the arrears of interim monetary relief. The husband did not assail the interim order dated 16.02.2019 itself, nor did he present any prayer seeking to deny or extinguish the wife's entitlement to interim maintenance. The Appellate Court, however, proceeded to examine the extent of the wife's entitlement for the entire arrear period claimed by her in the Section 128 Cr.P.C. proceeding.

While considering the appeal, the Appellate Court took into account the decree of mutual divorce dated 16.10.2019 passed in C.P. No.69 of 2019 and the affidavit filed therein by the wife declaring that she had "no future claim including permanent alimony" against the husband. Treating the decree as a judgment in rem under Section 41 of the Evidence Act, the Court concluded that this declaration operated as a binding waiver and therefore prevented the wife from claiming any monetary relief for a period beyond the date of dissolution of marriage. On this reasoning, the Appellate Court held that the liability arising from the interim order remained enforceable only from 16.02.2019 to 16.10.2019.

The Appellate Court further distinguished the decision in *Juveria Abdul Majid Patni vs. Atif Iqbal Mansoori*, reported in (2014) 10 SCC 736, observing that although a divorced woman may continue proceedings under the P.W.D.V. Act for acts of violence committed during the domestic relationship, such principle could not override a specific voluntary waiver recorded in a mutually agreed divorce decree. Proceeding on this basis, the Court held that the SDJM had erred in issuing coercive process for recovery of arrears beyond 16.10.2019, as no liability, in its view, survived after that date, and accordingly restricted the recoverable amount to the pre-divorce period, after adjusting sums already paid by the husband.

8. Thus, the Appellate Court's findings rested primarily on the procedural history of the matrimonial case, the affidavit waiving future monetary claims, and the conclusion that the interim monetary liability did not continue after the dissolution of the marriage. Although the husband's challenge was confined to the issuance of DW and conditional NBW, the Appellate Court examined and limited the underlying liability on the premise that the legal basis for recovery did not extend beyond 16.10.2019.

Analysis

9. The foremost question that arises for consideration is whether the Criminal Appeal No.7 of 2021, preferred by the Opposite Party before the learned 1st Additional Sessions Judge, Rourkela, under Section 29 of the Protection of Women from Domestic Violence Act, 2005, was maintainable when the order impugned therein had been passed by the learned S.D.J.M., Panposh in a proceeding initiated under Section 128 of the Code of Criminal Procedure. To address this question, it becomes necessary to briefly notice the statutory framework that governs both the P.W.D.V. Act and the Cr.P.C., particularly in the context of enforcement of monetary relief.

Jurisdiction

10. Section 29 of the P.W.D.V. Act provides that an appeal lies to the Court of Session “from every order passed by the Magistrate under this Act”. The expression “under this Act” gains importance in the present context because the enforcement proceeding from which the appeal arose was initiated under Section 128 Cr.P.C., which enables the Magistrate to enforce an order of maintenance by adopting coercive measures in the event of non-compliance. At the same time, Section 20(6) of the P.W.D.V. Act stipulates that any monetary relief granted under the Act shall be recoverable as if it were an order of maintenance under Section 125 Cr.P.C. The legislative intent is therefore clear: while the source of the monetary entitlement is the P.W.D.V. Act, the mode of recovery is purposely channelled through the procedural machinery of the Cr.P.C.

11. This statutory framework is further reinforced by Section 28 of the P.W.D.V. Act, which clarifies the procedural framework governing proceedings under Sections 12, 18 to 23 of the Act.

Section 28(1) provides that such proceedings shall be regulated by the Cr.P.C., whereas Section 28(2) allows the Magistrate to lay down his own procedure while dealing with applications under Section 12 or under Section 23(2).

28. Procedure. *-(1) Save as otherwise provided in this Act, all proceedings under sections 12, 18, 19, 20, 21, 22 and 23 and offences under section 31 shall be governed by the provisions of the Code of Criminal Procedure, 1973 (2 of 1974). (2) Nothing in sub-section (1) shall prevent the court from laying down its own procedure for disposal of an application under section 12 or under sub-section (2) of section 23.*

Thus, even though the P.W.D.V. Act is a special legislation intended to provide civil-natured reliefs through a criminal court, it consciously relies upon the Cr.P.C. for procedural guidance, unless the Act indicates otherwise.

12. Viewed in this statutory backdrop, an order passed by the learned S.D.J.M., Panposh while enforcing an interim monetary relief granted under Section 23(2) of the P.W.D.V. Act albeit through the mechanism under Section 128 Cr.P.C. cannot be treated as detached from the original proceedings under the Act. The Cr.P.C. is invoked only to the extent of facilitating enforcement, while the underlying right, liability and entitlement remain rooted in the P.W.D.V. Act. Therefore, when the Magistrate directed issuance of process for recovery of arrears of interim maintenance, such direction was inseparably linked to the interim order passed under the Act.

13. In this context, the Appeal preferred under Section 29 of the P.W.D.V. Act cannot be rejected merely because the order under challenge incidentally refers to Section 128 Cr.P.C. The proceeding under the Cr.P.C. operated only as a vehicle to give effect to an order originating under Section 23(2) of the Act. Consequently, an appeal questioning the enforcement measures taken in respect of that order would fall within the ambit of Section 29, subject to the nature and scope of issues raised. This Court therefore finds no basis to non-suit the Opposite Party-Husband's appeal before the Sessions Court on the ground of maintainability alone.

Maintainability of the present CRLMC application

14. It is equally necessary to consider the preliminary objection raised by Mr. Mohanty, learned counsel for the Opposite Party-Husband, who submitted that the present application under Section 482 Cr.P.C. is not maintainable, and that the Petitioner ought to have invoked the revisional jurisdiction under Sections 397 and 401 Cr.P.C. According to him, the impugned judgment being one rendered by an appellate court, the present invocation of inherent jurisdiction amounts to bypassing the statutory remedy of revision.

15. The Cr.P.C., however, contemplates two distinct avenues for approaching this Court. The first is the revisional jurisdiction under Sections 397 and 401 Cr.P.C., which enables scrutiny of the legality, propriety and correctness, or of an order passed by a subordinate criminal court. The second is the inherent jurisdiction under Section 482 Cr.P.C., which empowers the Court to make such orders as may be necessary to prevent abuse of process or to secure the ends of justice. These jurisdictions differ in source but may overlap in effect, and the mere availability of revision does not, by itself, extinguish the inherent powers of this Court unless expressly barred.

16. In the present matter, the Petitioner challenges the legality of the judgment rendered by the learned 1st Additional Sessions Judge in an appeal under Section 29 of the P.W.D.V. Act. There is no express statutory bar preventing such a challenge from being examined either in revision or under Section 482 Cr.P.C. What is material is whether the grievance raised strikes at a jurisdictional irregularity or manifests a patent miscarriage of justice. It is well established that where the impugned order is alleged to have been passed by exceeding jurisdiction or by adopting a procedure not sanctioned by law, the High Court may invoke its inherent powers notwithstanding the technical availability of a revisional remedy. The Petitioner asserts that the Appellate Court travelled beyond the permissible contours of Section 29 by re-assessing the subsistence and extent of interim monetary relief granted under Section 23(2) of the P.W.D.V. Act. Since this challenge requires examination of whether the Appellate Court acted within the scope of its jurisdiction under the special statute, this Court considers it appropriate to exercise its inherent powers. The objection based solely on the nomenclature of the present proceeding, therefore, cannot be sustained.

17. For the aforesaid reasons, the preliminary objection raised by the learned counsel for the Opposite Party-Husband is rejected. The present CRLMC is held to be maintainable. The matter shall now be examined on merits with the following issues for consideration.

Whether the Appellate Court was justified in examining the period for which interim monetary relief remained enforceable?

18. The first point that requires consideration is whether the learned 1st Additional Sessions Judge, while entertaining the appeal under Section 29 of the P.W.D.V. Act, was justified in examining the period for which the interim monetary relief granted on 16.02.2019 continued to remain enforceable. It is not disputed that the interim order was passed under Section 23(2) of the Act during the subsistence of the marriage, and that the Opposite Party-Husband never

challenged that order. The question raised is limited to whether the Appellate Court could assess the duration of liability arising from that interim order when the Petitioner sought recovery of arrears under Section 128 Cr.P.C.

Interim monetary relief under Section 23(2) is intended to provide temporary financial support to the aggrieved person during the pendency of the proceedings under the Act. The relief is linked to the continuance of the domestic relationship and the immediate needs arising from that relationship. When the Petitioner later initiated enforcement under Section 128 Cr.P.C., the Magistrate acted on the assumption that the interim order continued to operate for the entire period claimed by her. When the matter reached the Appellate Court, the Court was required to examine whether the liability to pay interim monetary relief legally continued beyond 16.10.2019, the date on which the marriage between the parties was dissolved. This examination did not amount to modifying or setting aside the interim order itself. It only involved determining the period for which arrears could lawfully be recovered. The Appellate Court was therefore entitled to consider whether the interim relief, being temporary and dependent upon the domestic relationship, continued to accrue after the relationship had come to an end by virtue of the decree of divorce.

19. In this background, the Appellate Court's inquiry into the enforceable duration of the interim monetary relief cannot be said to be without jurisdiction. The appeal before it concerned the enforceability of arrears, and the Court was required to examine the legal basis for the amount claimed. Determining whether the liability survived beyond the date of divorce was a necessary part of that assessment.

Whether the Petitioner continued to be an “aggrieved person” after the divorce, and the relevance of this status to interim monetary relief?

20. The next question that arises is whether the Petitioner continued to qualify as an “aggrieved person” under the P.W.D.V. Act after the decree of divorce dated 16.10.2019, and if so, whether this status automatically entitled her to interim monetary relief beyond that date. Section 2(a) of the Act defines an “aggrieved person” in the following terms:

2. Definitions. -In this Act, unless the context otherwise requires,- (a) “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

This definition makes it clear that the protection of the Act is available to a woman who “is, or has been, in a domestic relationship” with the respondent and who alleges that she has been subjected to any act of domestic violence.

21. The Supreme Court, in Prabha Tyagi vs. Kamlesh Devi, reported in MANU/SC/0631/2022 has clarified the scope of this definition, as follows:

“52. In view of the above discussion, the three questions raised in this appeal are answered as under:

(i)... (ii)... (iii) Whether there should be a subsisting domestic relationship between the aggrieved person and the person against whom the relief is claimed? It is held that there should be a subsisting domestic relationship between the aggrieved person and the person against whom the relief is claimed vis-à-vis allegation of domestic violence. However, it is not necessary that at the time of filing of an application by an aggrieved person, the domestic relationship should be subsisting. In other words, even if an aggrieved person is not in a domestic relationship with the Respondent in a shared household at the time of filing of an application Under Section 12 of the D.V. Act but has at any point of time lived so or had the right to live and has been subjected to domestic violence or is later subjected to domestic violence on account of the domestic relationship, is entitled to file an application Under Section 12 of the D.V. Act.”

The Court held that although the incident of domestic violence must have occurred during the subsistence of a domestic relationship, it is not necessary that the domestic relationship must continue on the date of filing of the application under Section 12. In other words, even after separation or divorce, a woman may still invoke the remedies under the Act if the allegations relate to incidents that took place when the domestic relationship existed.

22. In the present case, therefore, the Petitioner did not lose her status as an “aggrieved person” merely because the marriage was dissolved. She remained entitled to pursue her application under Section 12 of the Act and seek appropriate reliefs concerning acts of domestic violence that allegedly occurred during the marriage. Her status under the Act, for that purpose, remained intact. What is important to note is that a woman may continue to seek relief even after the domestic relationship has come to an end, provided the allegations pertain to acts of domestic violence committed during the subsistence of that relationship. The Hon’ble Supreme Court has also clarified that proceedings under the Act may be maintained even after separation or dissolution of marriage if the allegations relate to violence suffered while the domestic relationship was intact. This shows that the Act is designed to protect against the consequences of domestic violence irrespective of whether the parties continue to reside together or whether the marriage continues to subsist at the time of inquiry.

However, while the definition of “aggrieved person” enables a woman to seek relief under the Act based on past domestic violence, the nature, purpose and duration of the relief claimed must be examined in light of the specific provision invoked. Interim monetary relief granted under Section 23(2) read with Section 20 of the Act is intended to provide immediate financial support to the aggrieved person during the pendency of the proceedings. Section 20 permits the Magistrate to award monetary relief to meet the expenses incurred and losses suffered as a result of domestic violence. A portion of this relief may overlap with maintenance, but its duration and enforceability must still be directly connected to the subsistence of the domestic relationship and the allegations arising therefrom.

Whether interim monetary relief under Section 23(2) can continue after the dissolution of the domestic relationship?

23. Having noted that the wife continues to fall within the definition of an “aggrieved person” for the purpose of pursuing her application under Section 12 of the P.W.D.V. Act, the next question is whether the interim monetary relief granted on 16.02.2019 could lawfully continue to accrue even after the marriage was dissolved on 16.10.2019. Interim monetary relief under Section 23(2) is intended to provide immediate financial assistance during the pendency of the proceedings. Though temporary in nature, the relief is linked to the circumstances that justify the order at the time it is passed. The dissolution of marriage undoubtedly brings an end to the domestic relationship; however, this development alone does not automatically determine the duration for which interim monetary relief may remain enforceable. The P.W.D.V. Act does not treat the subsistence of the domestic relationship as the sole criterion for continuation of monetary relief. Rather, it is the pendency of the statutory proceedings, the nature of the allegations, and the nature of relief under Sections 12, 20 and 23(2) of the P.W.D.V. Act that guide the enforceability of such interim orders.

24. Section 20 of the Act empowers the Magistrate to grant monetary relief to meet the expenses and losses arising out of domestic violence, and sub-section (6) expressly makes such monetary relief recoverable as if it were an order of maintenance under Section 125 Cr.P.C. This incorporation of the Cr.P.C. mechanism does not imply that monetary relief ceases immediately upon divorce; the provision creates no such limitation. Instead, it links the enforceability of monetary relief to the consequences of domestic violence and to the period during which proceedings remain pending. Section 28, which stipulates that proceedings under Sections 12 and 18 to 23 shall be governed by the Cr.P.C. unless otherwise provided, further reinforces this structure. The Cr.P.C., particularly Sections 125 and 128, recognises that maintenance liabilities may extend beyond the subsistence of the marriage unless modified or cancelled by a competent court. The Legislature, by adopting this mechanism, has not created a separate termination rule for interim monetary relief under the P.W.D.V. Act.

The above understanding is also found in the decision of the Hon’ble Supreme Court in *Prabha Tyagi vs. Kamlesh Devi* (Supra), where it was clarified that the status of an “aggrieved person” persists so long as the allegations relate to acts of domestic violence occurring during a domestic relationship. Once recognised as an aggrieved person, the woman is entitled to pursue all consequential reliefs available under the Act, including interim monetary support, until the application under Section 12 is adjudicated. The decision does not suggest that divorce automatically curtails interim monetary relief; rather, it emphasises continuity of remedy where the allegations relate to a period when the parties lived in a domestic relationship.

25. In this light, while the cessation of the domestic relationship i.e. the dissolution of marriage on 16.10.2019 marks an important stage in the timeline between the parties, it does not, by itself, bring an end to reliefs that were already operative under the P.W.D.V. Act. The real inquiry ought to have been whether the interim order remained in force during the pendency of the wife’s application under Section 12, and whether any judicial order had subsequently modified, suspended, or set aside that interim directive. In the absence of any such modification, the interim order continued to stand, and its enforceability could not be curtailed merely on account of the dissolution of marriage. Therefore, the Appellate Court’s conclusion that liability under the interim

order ceased automatically on the date of divorce does not accord with the statutory framework, the nature and purpose of interim monetary relief, or the principles laid down in binding judicial precedent.

Conclusion

26. Having considered the rival submissions, examined the statutory framework, and analysed the findings recorded by the learned Appellate Court, this Court is of the view that the interference made by the Appellate Court in restricting the enforceability of the interim monetary relief requires reconsideration. The materials on record unequivocally demonstrate that the interim order dated 16.02.2019 passed under Section 23(2) of the P.W.D.V. Act was never challenged by the husband before the competent forum. That order continued to remain operative throughout the pendency of the wife's application under Section 12 of the Act. The enforcement proceeding initiated under Section 128 Cr.P.C. was confined solely to realising the admitted arrears arising out of the said interim order. The husband approached the Appellate Court only upon issuance of D.W. and N.B.W. by the Magistrate, and not on the ground that the liability under the interim order was non-existent.

27. This Court has already held that the wife continued to qualify as an "aggrieved person" within the meaning of the Act and that the pendency of her Section 12 application entitled her to maintain and enforce interim monetary relief granted earlier. It has also been clarified that dissolution of marriage on 16.10.2019 did not, by itself, extinguish the interim order, in the absence of any judicial modification or cancellation. The statutory scheme, the nature of interim monetary relief, and the principles enunciated in judicial precedents collectively establish that interim relief granted under Section 23(2) survives until it is expressly vacated, varied, or merged into the final adjudication of the Section 12 petition.

28. Viewed against this backdrop, the approach adopted by the learned Appellate Court in treating the date of divorce as the determinative point from which the liability stood extinguished for the wife's entitlement is found to be legally unsustainable. The Appellate Court exceeded the scope of its scrutiny by examining a question that did not arise from the enforcement order under challenge. The Magistrate's order dated 18.01.2021 was limited to procedural steps under Section 128 Cr.P.C. for realising arrears. The Appellate Court was not called upon to adjudicate the validity, subsistence, or duration of the interim order itself. By suo motu entering into that inquiry, the Appellate Court travelled beyond the record and restricted a liability that continued to stand in law.

29. In view of the findings recorded above, this Court holds that the learned 1st Additional Sessions Judge, Rourkela was not justified in curtailing the enforceability of the interim monetary relief granted on 16.02.2019, and is contrary to provisions of the P.W.D.V. Act. The modification made in Criminal Appeal No.7 of 2021, restricting the wife's entitlement up to the date of dissolution of marriage, travelled beyond the scope of the order under challenge and cannot be sustained. The interim order dated 16.02.2019 continued to remain operative during the pendency of the wife's application under Section 12 of the P.W.D.V. Act.

30. It is also relevant to note that this Court, in CRLMC No. 1381 of 2023, had already examined the quantum of interim maintenance and, upon due consideration, modified the amount from Rs.7,000/- to Rs.5,000/- per month vide order dated 12.10.2023. Accordingly, the enforceability of the interim order shall now stand subject to the modified quantum of Rs.5,000/- per month, as already determined by this Court.

31. The order dated 18.01.2021 passed by the learned S.D.J.M., Panposh in Criminal Misc. Case No.407 of 2020, initiating steps for realisation of arrears, stands restored, with the clarification that arrears up to 11.10.2023 shall be computed at the rate of Rs.7,000/-per month, and arrears from 12.10.2023 onwards shall be computed at the modified rate of Rs.5,000/- per month, until the disposal of the Petitioner-Wife's application under Section 12 or until further orders of the competent court. The learned Magistrate shall proceed with the enforcement in accordance with law.

32. It is made clear that this Court has not entered into, nor expressed any opinion on the merits of the Petitioner-wife's substantive application under Section 12 of the P.W.D.V. Act. This Court has confined itself solely to clarifying the position of law. The learned Magistrate shall, therefore, proceed with the Section 12 application independently and in accordance with law, and shall endeavour to conclude the proceedings within a reasonable time.

33. The Opposite Party-Husband shall cooperate in the enforcement proceeding and comply with all the directions issued by the learned Magistrate in Criminal Misc. Case No.407 of 2020. It shall remain open to either party to seek modification, variation or cancellation of the interim order dated 16.02.2019 before the competent forum, if so advised.

34. With the above observations and directions, the CRLMC stands disposed of, as allowed