IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 3RD DAY OF OCTOBER 2016

BEFORE

THE HON'BLE MRS.JUSTICE RATHNAKALA

CRIMINAL REVISION PETITION NO.7/2016

BETWEEN:

SRI MONOJIT BANERJEE
SON OF SRI BISWAJIT BANERJEE
AGED ABOUT 49 YEARS
RESIDING AT
NO.114, 1ST FLOOR, 8TH MAIN
11TH CROSS, MALLESWARAM
BANGALORE – 560 003. ...PETITIONER

(BY SRI VENKATESH S. ARABATTI, ADV. FOR
SRI R.KIRAN, ADV.)

AND:

SMT.SHALINI BANERJEE
WIFE OF MONOJIT BANERJEE
AGED ABOUT 39 YEARS
RESIDING AT
FLAT NO.2034, 3RD FLOOR
SOBHA MOONSTONE APARTMENTS
KEMPAPURA MAIN ROAD
DASARAHALLI, HEBBAL, KEMPAPURA
BANGALORE – 560 024. ...RESPONDENT

(BY SRI KIRAN S. ROZARIO, ADV.)

THIS CRIMINAL REVISION PETITION IS FILED UNDER SECTION 397 R/W 401 OF CR.P.C., PRAYING TO SET ASIDE THE ORDER DATED 30.11.2015 PASSED BY THE LXVII ADDL. CITY CIVIL AND S.J., BANGALORE AGAINST THE I.A.NO.IV IN CRL.A.NO.1251/2014 AND CONSEQUENTLY DISMISS THE INTERLOCUTORY APPLICATIONS NO.IV.

THIS CRIMINAL REVISION PETITION COMING ON FOR ADMISSION THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

This revision petition is filed by the revision petitioner (henceforth husband) aggrieved by the judgment dated 30.11.2015 passed by the LXVII Additional City Civil and Sessions Judge, Bengaluru in Crl.A.No.1251/2014, whereby, while partly allowing IA.No.4, he is directed to pay a sum of Rs.15,000/- per month as interim maintenance to the wife/respondent herein.

2. Heard the learned Advocates for both the parties.

3. The fact is that the respondent/wife filed a petition against the husband under the provisions of Protection of Women from Domestic Violence Act, 2005 ('the Act' for short) along with four interim applications. In response to the notice issued by the Court, the

respondent/husband appeared. The learned Magistrate after giving audience to both the parties, rejected her applications i.e. IA.Nos.1/2015 and 4/2015 (filed for seeking interim maintenance of Rs.50,000/- per month). However, partly allowed IA.Nos.2/2015 and 3/2015. Aggrieved wife took the matter to the Appellate Court. Vide considered order dated 30.11.2015, the husband was given visiting right and directed to pay maintenance of Rs.15,000/- per month.

4. As per the submission at Bar, the evidence of the respondent/wife is in progress. Admittedly, impugned order is passed after the pleadings were completed and the respondent had resisted the main petition. The learned Magistrate rejected the application by holding that there is no material to order interim maintenance. The Co-ordinate Bench of this Court in Crl.RP.No.815/2009 disposed of on 09.12.2009 had taken a view that when the order impugned was not an

order passed *ex parte*, the learned Magistrate was required to hold an enquiry and then should have recorded his finding.

5. As per submission at Bar, the trial is in progress. Section 12(5) of the Act mandates endeavor for disposal of the petition within 60 days from the date of its first hearing. The petition is pending before the Trial Court from the year 2014. If the case had been accepted in accordance with the spirit of statutes by the strength, the case would have reached its logical end by this time.

6. Sri Venkatesh S. Arafatti, learned counsel appearing on behalf of the revision petitioner/husband submits that the petitioner will co-operate with the Court for speedy disposal of the case without taking any adjournment as such.

7. Having regard to the submission on behalf of the revision petitioner/husband, this petition is allowed and

the order dated 30.11.2015 passed by the Appellate Court in Crl.A.No.1251/2014, is set-aside.

The Trial Court is directed to dispose of the case in accordance with law, within eight weeks from the next date of hearing without heeding to the unreasonable request of the parties for adjournment.

In view of the disposal of the petition, IA.No.1/2016 does not survive for consideration and the same is disposed of.

Sd/-
JUDGE

LB/-

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