

THE HIGH COURT OF TRIPURA
AGARTALA

Crl. Petn. No.04 of 2015

Sri Arup Acharjee,
son of late Paresh Chandra Acharjee,
resident of Ramnagar Road No.7,
P.O. Ramnagar,
P.S. West Agartala,
District – West Tripura, Pin – 799 002.

..... **Petitioner**

– Vs –

Smt. Sampa Acharjee,
wife of Sri Subhankar Acharjee,
daughter of Sri Dilip Acharjee
resident of Radhanagar,
P.O. Agartala,
P.S. West Agartala,
District – West Tripura, Pin-799 001

.....**Respondent**

B E F O R E
THE HON'BLE MR. JUSTICE S. TALAPATRA

For the petitioner	: Mr. B. Deb, Advocate
For the respondent	: None
Date of hearing and delivery of judgment & order	: 20.02.2015
Whether fit for reporting	: NO

JUDGMENT & ORDER (ORAL)

Heard Mr. B. Deb, learned counsel appearing for the petitioner.

02. This is a petition filed under Section 482 of the Cr.P.C. for quashing the proceeding being CR Case No.139 of 2013 instituted at the instance of the respondent under Section 12 of the Protection of Women from Domestic Violence Act, 2005 (DV Act, in short).

03. Mr. Deb, learned counsel appearing for the petitioner has emphatically submitted that a petition was filed before the Magistrate challenging the maintainability of the said proceeding and the Magistrate without taking any cognizance of that petition has continued to proceed. Being aggrieved thus, the petitioner has approached this Court. He has further submitted that it would be apparent from Annexure-5 that the case was fixed for recording the complainant's evidence on 19.03.2015. Mr. Deb, learned counsel has raised solitary objection related to the maintainability of the said proceeding. Since on the same set of allegations the respondent has instituted the criminal proceeding under Section 498-A of the IPC, the proceeding under Section 12 of the DV Act cannot be maintained.

04. Having due regard to the submission made by Mr. Deb, learned counsel, this Court is constrained to hold that the object and purpose of enacting Section 12 of the DV Act is entirely different. There is no penal provision under the DV Act except Section 31 of the DV Act where it has been provided that if 'the protection order' is breached the court can take cognizance of such breach and proceed to convict and sentence. Such cognizance is taken on the failure to comply the order of the court and that provision has been inserted in the DV Act for ensuring the enforcement of its order. But the investigation carried out on the basis of a complaint under Section 498-A is entirely on specific offence allegedly committed the petitioner. Therefore, simultaneously those proceeding and investigation can run and if the petitioner tends to take any advantage therefrom, he is entitled to do so in accordance with law, but he cannot be allowed to

contend that the proceeding under the DV Act is not maintainable for existence of the criminal process under Section 498-A.

05. Accordingly, this petition being bereft of merit, stands dismissed.

JUDGE

MB