

CRM-M-23493-2015 (O&M)

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CRM-M-23493-2015 (O&M).
Decided on: August 11, 2015.**

Bidyut Kumar Mallick and another

..... Petitioner(s)

Versus

Leena Mallick

..... Respondent(s)

*** * ***

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI

**PRESENT Mr.N.D.Achint, Advocate,
for the petitioners.**

M.M.S. BEDI, J (ORAL)

The respondent has launched proceedings under Section 12 of the Protection of Women from Domestic Violence Act, 2005, in the Court of the Judicial Magistrate First Class, Gurgaon.

In the said petition, the petitioners were arrayed as opposite party (respondents). On account of non-appearance of the petitioners, the said petition was dismissed for non-prosecution. In an appeal filed under Section 29 of the Protection of Women from Domestic Violence Act, 2005, the petitioners were summoned along with their son. Vide impugned order they have been proceeded against ex parte having not put in appearance before the Appellate Court despite service. The present petition has been filed by the petitioners aggrieved by order dated 19.11.2004 claiming that continuation of the proceedings qua the petitioners is an abuse of process of the Court.

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I have heard the counsel for the petitioners and I am of the opinion that the order of proceeding against the petitioners ex parte despite service is an interim order. The petitioners can always appear through counsel before the Court concerned and put forth their actual and legal pleas of defence to restrain continuation of proceedings. They can also raise plea through their counsel that the appeal is not maintainable against them.

No ground is made out for interference in the exercise of inherent jurisdiction.

The petition is dismissed without prejudice to the rights of the petitioner to raise all the pleas before the Courts below.

August 11, 2015.
rka

(M.M.S. BEDI)
JUDGE