

05.10.2020

Sl. No. 10

Ct. No.05

Srimanta/Mithun

IA No.CRAN/1/2020

in

CRR /813/2020

(Via Video Conference)

In Re: An application under Section 482 read with Section 401 of the Code of Criminal Procedure, 1973 in connection with an order dated 11.02.2020 passed by the learned Sessions Judge, North-24-Parganas in Criminal Appeal No.11 of 2020 arising out of an order dated 07.01.2020 passed by the learned Judicial Magistrate, Bidhannagar, North-24-Parganas in C Case No.5164 of 2018 under Section 12 of the Protection of Women from Domestic Violence Act, 2005.

And

In the matter of : Piyal Mondal.

... Petitioner

Mr. Soumyajit Das Mahapatra, Adv.

... for the petitioner

Mr. Rana Mukherjee, Ld. A.P.P.

Mr. Santanu Chatterjee, Adv.

... for the State

An order dated 11th February, 2020 passed by the learned Sessions Judge, North 24-Parganas refusing to grant an order of stay of operation of an order passed under Section 12 of the Protection of Women from Domestic Violence Act is under challenge at the instance of the petitioner/husband in the instant revision.

It is stated hereinabove that against the order dated 7th January, 2020 passed by the learned Judicial Magistrate, Bidhannagar in connection with C Case No.5164 of 2018 under Section 12 of the said Act, the present petitioner preferred an appeal before the learned Sessions Judge which was registered as Criminal Appeal No.11 of 2020. The said appeal is still pending. The learned Sessions Judge was of the opinion that no order staying the operation of the order dated 7th January, 2020 passed by the learned Judicial Magistrate, Bidhannagar could be granted without hearing the opposite party. Therefore, the petitioner was directed to serve notice upon the opposite party.

The petitioner/husband, being aggrieved by the said order has preferred the instant revision.

Since the petitioner has already challenged the legality, validity and propriety of order dated 7th January, 2020 in appeal and the same is pending, I am of the view that no fruitful purpose would be achieved in the instant revision.

Therefore, the instant revision is disposed of directing the learned Sessions Judge to hear out and dispose of Criminal Appeal No.11 of 2020 within a fortnight from the date of communication of server copy of this order in presence of both sides.

It is made clear that if either of the parties fail to appear in spite of service of satisfactory notice upon him/her, the learned Sessions Judge is at liberty to dispose the appeal of on merit hearing the party present before him.

There shall be no order as to costs.

(Bibek Chaudhuri, J.)