

Form No. J(2)

IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION

Present:

The Hon'ble Justice Jay Sengupta

C.R.R. 232 of 2021

Apu Kundu

-vs-

The State of West Bengal & Anr.

For the Petitioner : Mr. Jagadis Chandra Majumder,
Mr. Shibaji Kumar Das
Ms. Rupsa Sreemani

For the Opposite party no.2: Mr. Ayan Bhattacharjee,
Mr. Avik Ghakta,
Mr. Sohan De Dhara

For the Opposite Party No.2: Mr. S. Choudhury

Heard on: 19.02.2021

Judgment on: 19.02.2021

Jay Sengupta, J.:

This is an application challenging the order no.13 dated 19.01.2021 passed by the learned Additional Sessions Judge, Fast Track Court-IV, Barrackpore, North 24 Parganas in Criminal Appeal No.14 of 2019 under Section 29 of the Protection of Women From Domestic Violence Act, 2005.

An original copy of the application, along with corresponding receipt, praying for supply of a certified copy of the order dated 22.02.2021 passed by the learned Appellate Court, as filed in Court, is taken on record.

Learned counsel appearing on behalf of the petitioner husband submits as follows. The petitioner is the respondent in the appeal preferred by the opposite party no.2 being Criminal Appeal No.14 of 2019 challenging an order passed under the Protection of Women From Domestic Violence Act, 2005. The wife had challenged the order of learned trial court whereby no maintenance allowance was granted to her and also about the insufficiency of maintenance allowance granted to the minor child. On 19.01.2021, an adjournment was prayed for on behalf of the respondent husband by his learned advocate as the learned advocate was busy in a sessions trial. The learned trial court was pleased to impose a hefty cost of Rs.10,000/- and fixed the next date as 02.02.2021. On 02.02.2021, the learned appellate court was pleased to close the arguments and fix 23.02.2021 for judgment. The petitioner was not heard in the appeal where he was a respondent. Although the

petitioner had applied for certified copy of the order dated 02.02.2021, the same was not supplied to him.

Learned counsel for the opposite party no.2 submits as follows. On several dates the present petitioner had prayed for adjournments before the learned appellate court. In fact, on an earlier date a cost of Rs.1,000/- had to be imposed, which has not been paid yet. The petitioner continued to avoid the court on some pretext or the other. The learned trial court quite rightly imposed a cost of Rs.10,000/- upon the present petitioner on 19.01.2021 for delaying the matter. Even on the next date the petitioner did not take steps except for communicating about the pendency of this application.

I have heard the submissions of the learned counsels appearing on behalf of the petitioner and the opposite party no.2 and have perused the revision petition.

A right of hearing is too precious a right that is required to be scrupulously respected. It is a fundamental right of a litigant guaranteed by our Constitution.

However, it appears from the order sheet that the petitioner had prayed for adjournment on several occasions.

As such, the learned appellate court was justified in imposing a cost of Rs. 10,000/- on 19.01.2021.

In view of the above and in the interest of justice, this Court is of the view that another opportunity of hearing may be granted to the present petitioner as a last one.

Accordingly, the learned appellate court is requested to fix a date for hearing the present petitioner and thereafter, to conclude the proceeding at the earliest.

However, I have no reason to interfere with the impugned order so far as the imposition of cost is concerned.

The petitioner is directed to pay the costs imposed by the learned appellate court by the next date of hearing.

With these observations, the revisional application is disposed of.

Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Jay Sengupta, J.)