

**11.03.2021
Mithun
Sl. No.14
D/L.
Ct.No.30.**

**IA No:CRAN/1/2012 (Old No:CRAN/1791/2012)
[application not in file]
in
CRR/292/ 2012**

In the matter of : Sri Diptendu Maity.

...the Petitioner.

None appears on behalf of the parties.

The instant criminal revision is filed assailing the order dated 4th January, 2012 passed by the learned Sessions Judge, Paschim Medinipur in Criminal Appeal No.16 of 2011 affirming the order dated 15th July, 2011 passed by the learned Judicial Magistrate, Paschim Medinipur in C.R. Case No.41 of 2011 rejecting the application filed by the petitioner for quashing the proceeding under Section 12 of the Protection of Women from Domestic Violence Act.

The husband of the opposite party No.2 is the petitioner before this Court. It is found from the record that the petitioner filed an application before the learned Judicial Magistrate, 1st Court at Paschim Medinipur challenging the maintainability of a proceeding under

Section 12 of the Domestic Violence Act on the ground that at the instance of the Opposite Party No.2, a criminal case under Section 498A/406 of the Indian Penal Code was registered and in the said case, on the prayer of the aggrieved party, all stridhan articles was seized by the police. In the application under Section 12 of the Protection of Women from Domestic Violence Act, the opposite party No.2 being the original petitioner made the same prayer.

The learned Judicial Magistrate rejected the application filed by the present petitioner before him challenging maintainability of the proceeding under Section 12 of the Protection of Women from Domestic Violence Act on the ground that the aggrieved party beside claiming that the stridhan articles has also prayed for relief under Sections 18 and 20 of the said Act. Therefore, it was held by the learned Magistrate that the proceeding under Section 12 of the said act on the basis of which C.R. Case No.41 of 2011 was registered is maintainable.

The present petitioner filed an appeal before the learned Sessions Judge, Paschim Medinipur being Criminal Appeal No.16 of 2011 challenging the said finding of the learned Judicial Magistrate, 1st Court at Paschim Medinipur. The learned Sessions Judge dismissed the appeal.

I have perused the order passed by the learned Judicial Magistrate, 1st Court at Paschim Medinipur and the learned Sessions Judge in Criminal Appeal No.16 of 2011.

It is needless to say that the object of enactment of the Protection of Women from Domestic Violence Act is to enact a law keeping in view the rights guaranteed under Articles 14, 15 and 21 of the Constitution of India to provide for a remedy under the Civil law which is intended to protect the women from being victims of domestic violence and to prevent domestic violence from the society.

Section 498A/406 IPC is a penal provision of PWDV Act is enacted for protection of civil rights of woman guaranteed by the Constitution of India under Articles 14, 15 and 21. The protection order, monetary relief, residence order that a Magistrate can pass under the said Act is absolutely civil in nature, though the forum for adjudication of the dispute between the parties is stated to be the Court of the learned Judicial Magistrate under the statute. Therefore, incident of a case under Section 498A/406 IPC does not bar a proceeding under Section 12 of the Domestic Violence Act for appropriate civil relief.

For the reasons stated above, I do not find any illegality in the impugned order. Accordingly, the instant criminal revision is dismissed on merit.

(Bibek Chaudhuri, J)