

07.09.2021
Sl. Nos.144
Court No.34
BM

CRR 702 of 2020
+
IA No.CRAN/1/2020(Old No.CRAN/1239/2020)

+
IA No.CRAN/2/2021

Esher Ali Molla
Vs.
Ajima Molla & Anr

Mr. Tushar Kanti Mukherjee ... for the petitioner

Mr. Mrinal Kanti Sardar ... for the opposite party

The statutory provision in respect of any order or final order passed by the Magistrate under the provision of the Protection of Women from Domestic Violence Act, 2005 is in appeal under Section 29 of the said Act.

The present revisional application was preferred in respect of an order which finally determined the rights of the parties so far as maintenance is concerned.

Having regard to the fact that the said proceeding should have been challenged in appeal, I am of the view that the revisional application is not maintainable. As such, CRR 702 of 2020 is dismissed.

The petitioner would be at liberty to prefer appeal before the learned Sessions Judge, Alipore by invoking the appropriate provision of law. If any application under Section 5 of the Limitation Act is preferred by the petitioner bringing to the notice of the appellate court that because of pendency of the revisional

application no appeal could be preferred and there has been delay, the learned appellate court will consider the same in the background of the factual circumstances leading to the delay and consider such application.

It has been brought to my notice that warrant of arrest has been issued against the present petitioner. The said warrant of arrest is stayed for a period of four weeks from date, if petitioner prefer the appeal within the said period of four weeks, the learned appellate court will independently consider the same.

The learned advocate appearing for the opposite party submits that the wife is suffering as no maintenance has been granted to her. The opposite party wife will be at liberty to take appropriate recourse under the law.

Accordingly, all pending applications preferred in connection with this revisional application is disposed of.

Interim order earlier passed is hereby vacated subject to the stay of the warrant of arrest for a period of four weeks from date.

The Sessions Judge, Alipore is directed to act on the server copy of this order downloaded from the official Website of the Hon'ble High Court at Calcutta.

(Tirthankar Ghosh, J.)