

22.01.2021

Sl. No. 31

Srimanta

Ct. No. – 30

D/L

**CRR/983/2020
(Via Video Conference)**

In Re : An application under Section 397/401 read with Section 482 of the Code of Criminal Procedure, 1973 in connection with an order dated November 07, 2019 passed by the Learned Judicial Magistrate, 1st Court, Bolpur, Birbhum in connection with Misc. Case No. 134 of 2018 under Section 23 of Domestic Violence Act, 2005.

In the matter of : Abdulla Faruk @ Abul Faruk @ Abdul Faruk

... petitioner.

Mr. Sujoy Sarkar, Adv.

... for the petitioner.

The instant criminal revision has been filed by the husband/petitioner against an order passed by the Learned Judicial Magistrate, 1st Court, Bolpur on 7th November, 2019 upon an application under Section 23 of the Protection of Women from Domestic Violence Act allowing interim monetary relief in favour of opposite party no. 1.

It is now a settled proposition of law that an order under Section 23 of the said Act is appellable and appeal shall lie before the learned Sessions Judge under Section 29 of the said Act.

Therefore, the instant revision be not maintainable is dismissed.

The petitioner is at liberty to file an appeal before the Learned Sessions Judge along with an application under Section 5 of the Limitation Act for condonation of delay and in such a case the Learned Sessions Judge shall consider the position of the statute as to whether benefit can be granted to

the petitioner and delay can be condoned during the period within which the petitioner was pursuing wrongly the instant revision.

Petitioner is directed to act on the server copy of this order.

The petitioner is at liberty to withdraw the certified copy of the order dated 7th November, 2019 passed by the Learned Judicial Magistrate, 1st Court, Bolpur from the record on production of a photostat copy of the same.

(Bibek Chaudhuri, J.)