

19.01.2021
Mithun
Sl. No.14.
D/L.
Ct.No.30

CRR/1016/2020

In the matter of : Sourav Mondal.

...the Petitioner.

None appears on behalf of the petitioner/husband.

The instant revision under Section 482 of the Code of Criminal Procedure is filed by the husband of the opposite party praying for quashing of a proceeding under Section 12 of the Protection of Women from Domestic Violence Act filed by the opposite party for appropriate relief in the Court of the learned A.C.J.M., Kalna, Purba Burdwan.

The said application under Section 12 of the said Act was registered as Misc. Case No.110 of 2019. It is stated in the instant application that the petitioner filed a suit for divorce against the opposite party, which was registered as Matrimonial Suit No.3050 of 2018. On the prayer of the opposite party, the said suit was transferred to the Court of the learned Additional District Judge, Kalna in the district of Purba Burdwan. In the said suit, the petitioner

filed an application under Section 24 of the Hindu Marriage Act praying for alimony pendente lite which was registered as Misc. Case No.269 of 2019.

The petitioner also filed an application under Section 125 of the Code of Criminal Procedure praying for maintenance against the opposite party.

According to the husband/opposite party, in view of filing of an application under Section 24 of the Hindu Marriage Act and Section 125 of the Code of Criminal Procedure by the opposite party, the application under Section 12 of the said Act is not maintainable and accordingly, he has prayed for quashing of Misc. Case No.110 of 2019 pending before the learned A.C.J.M., Kalna, Purba Medinipur.

It is needless to say that the scheme of the Protection of Women from Domestic Violence Act, 2005 is to provide relief to the destitute lady, who is neglected and subjected to domestic violence by her husband and other relations, be it matrimonial or paternal. The said Act operates altogether in different field providing various relieve to the aggrieved person. Pendency of an application for alimony pendente lite or an application under Section 125 of the Code of Criminal Procedure

cannot operate as a bar to file an application under the said Act. Moreover, under the said Act breach of protection order or an interim protection order or an order passed under Section 12 of the said Act are declared to be an offence under Section 31 of the said Act. So far as the reliefs are concerned, as provided in the said Act, the said reliefs are not granted as sentence for commission of any offence. The reliefs are also not in the nature of compensation or fine.

Therefore, in my considered opinion, Section 482 of the Code of Criminal Procedure is not applicable in a proceeding under the Protection of Women from Domestic Violence Act.

Accordingly, the instant revision is summarily dismissed.

(Bibek Chaudhuri, J)