

CRR 2232 of 2021
(Via video conference)

In the matter of : Koushik Sarkar

.....Petitioner

Mr. Partha Sarathi Das

Mr. Ivan Roy ...for the petitioner

The petitioner has challenged the orders relating the Misc. Execution case no. 85 (iv) of 2020 pending before the learned Judicial Magistrate, 1st Class, Kalyani, Nadia which arose out of an order dated 18.10.2019 passed in case no. 461/15.

The learned Judicial Magistrate granted maintenance under Section 12 of the Protection of Women from Domestic Violence Act, 2005 by an order dated 18.10.2019.

The records do not reflect that the stay order was challenged before the learned Sessions Judge. Subsequently, execution case was filed by the Opposite party/wife and the petitioner has again approached this court directly.

The statute provides for appeal under Section 29 of the Protection of Women from Domestic Violence Act, 2005, I find no exceptional circumstances to invoke the jurisdiction under Section 482 of the Code of Criminal Procedure in this case.

The petitioner should first exhaust statutory remedy and thereafter approached this court. Accordingly the petitioner is granted liberty to approach the learned Sessions Judge challenging the order dated 10.9.2021 as prayed before this court.

The department is directed to return the certified copy to the advocate on record after the same is replaced by Photostat copies.

No order need be passed in the revisional application. However, learned Sessions Judge would independently consider the appeal if preferred and if so advised without being influenced by any observation made by this court.

Accordingly, CRR 2232 of 2021 is disposed of.

Pending application, if any, is consequently disposed of.

All parties are to act on the server copy of this order duly downloaded from the official website of this court.

(Tirthankar Ghosh, J.)