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CRR 3045 of 2018

(Via Video Conference)

**In the matter of : Md. Faiyaz
....Petitioner**

Mr. Fazlur Rahman
Mr. Sourav Paul
...for the petitioner

Mr. D. Chatterjee
Mr. Asit Nayek
...fore the opposite party

The instant revision is filed by the husband/opposite party of Case No.2238 of 2018 under Section 12 of Protection of Women from Domestic Violence Act, 2005 (hereafter described as the said Act) pending before the learned Judicial Magistrate, 1st Court, South 24 Parganas.

By filing the instant application the husband/petitioner has prayed for quashing the proceeding under Section 12 of the said Act on the ground of suppression of material fact. In order to substantiate the contention of the present petitioner, it is submitted by Mr. Rahman that the opposite party herein gave divorce to her husband long time back but she suppressed the said fact in the instant application and claimed herself to be the legally married wife of the

present petitioner which is absolutely false and false to the knowledge of the opposite party.

It is an established proposition of law that even a divorced wife can maintain an action under Section 12 of the said Act for appropriate relief. However, Mr. Rahman submits that under the peculiar facts and circumstances of the instant case the opposite party is not entitled to any relief and the proceeding under Section 12 is not at all maintainable.

In view of such circumstances, the instant criminal revision is disposed of directing the learned Judicial Magistrate, First Court at Alipore to hear out Misc. Case No. 2238 of 2018 on the point of maintainability within one month from the date of communication of this order.

The petitioner is at liberty to communicate the order through his learned advocate obtaining a copy of the same from the server of the website of the High Court at Calcutta.

The learned Magistrate is directed to act on the server copy of the same.

The instant revision is disposed of on contest, however, without costs.

(Bibek Chaudhuri, J.)

