

11.01.2021

CRR/3864/ 2019

In the matter of : Dr. Sahil Sanghi

...the petitioner.

Mr. Abhra Mukherjee, Adv.,
Ms. Anita Kundu, Adv,
Mr. Sauradeep Dutta, Adv.

... for the petitioner

The petitioner is the husband/opposite party of the Protection of Women from Domestic Violence Act (hereinafter described as the said Act) which was registered as Case No.C-4856 of 2018 in the Court of the learned Chief Judicial Magistrate at Alipore. Subsequently, the said case filed by the wife of the present petitioner (opposite party No.2 herein) was transferred to the 6th Court of the learned Judicial Magistrate at Alipore.

Upon service of notice the present petitioner duly appeared before the learned trial court to contest the said case and went on taking time consecutively to file written objection. In such manner the petitioner took time of fifth consecutive dates to file written objection. The conduct of the petitioner prompted the opposite party No.2 to file a revisional application before this Court it was registered as CRR No.1658 of 2019. The said criminal revision was disposed of by a Coordinate Bench directing the present petitioner to file his written objection on the next date, i.e. on September 4,

2019 with prior service of the copy of the said objection at least one week in advance to the opposite party No.2.

It is contended by the petitioner that he tried to serve copy of the written objection to the learned Advocate for the opposite party No.2 on 28th August, 2019 but the learned Advocate was not available. Subsequently, on 29th August, 2019 he sent a copy of written objection to the opposite party No.2 by post. She received the said copy on 30th August, 2019. However, the learned Magistrate refused to accept the written objection of the present petitioner in Case No.C-4856 of 2018 on the ground that it was not served upon the opposite party No.2 within the time limit fixed by this Court in CRR No.1658 of 2019. The learned Magistrate then proceeded with the hearing of the application.

Though the written objection of the present petitioner was not accepted by the learned Magistrate, he was permitted to participate in the hearing of the aforesaid case. The opposite party No.2 was cross examined in full by the learned Counsel for the present petitioner.

Thereafter the petitioner wanted to adduce evidence in support of his defence. The learned Magistrate vide order dated 15th November, 2019 rejected the said prayer on the ground that there was no defence submitted by the petitioner in Case No.C-4856 of 2018. The petitioner challenged the said order in appeal before the learned Sessions Judge at Alipore. The said appeal was registered as Criminal Appeal No.259 of 2019. The appeal was admitted but prayer for stay of further proceeding of Case No.C-

4856 of 2018 was refused. The said order dated 27th November, 2019 passed by the learned Sessions Judge Alipore in Criminal Appeal No.259 of 2019 is under challenge in the instant revision.

Having heard the learned Advocate for the petitioner and on due consideration of the entire conspectus of the factual circumstances involved in the matter, this Court is of the view that ends of justice will be sub-served if the learned Sessions Judge is directed to disposed of the Criminal Appeal No.259 of 2019 within shortest period of time in accordance with law.

For the reasons stated above the instant revision is disposed of directing the learned Sessions Judge, South 24 Parganas at Alipore to dispose of the Criminal Appeal No.259 of 2019 by 15th February, 2021 after giving opportunities to both the parties to place their respective cases.

It is not clear that the learned Sessions Judge shall not adjourn the hearing of the appeal and positively disposed of the same within the aforesaid time frame.

A copy of this order be sent to the learned Sessions Judge, South 24 Parganas at Alipore through the Register Judicial Service, High Court Calcutta. The petitioner is at liberty also to act on the server copy of this order.

The instant revision if accordingly disposed of, however, without any cost.

(Bibek Chaudhuri, J)