

16.08. 2022
item No.22
n.b.
ct. no. 42

CRR 1808 of 2022

**Champa Das
Vs.
Rina Das & Ors.**

Mr. Debasish Kundu
.....for the Petitioner

The present petitioner filed an application under Section 12 of the Protection of Women from Domestic Violence Act against the opposite parties, who happened to be the father, stepmother and stepbrother for various reliefs. The said application was registered as case No.C-339/2019 in the Court of the Learned Additional Chief Judicial Magistrate, Diamond Harbour, South 24-Parganas. In the mean time, almost three years have elapsed the hearing of the above mentioned case is not even started in the Trial Court.

The petitioner being a destitute lady in a need of protection under the Domestic Violence Act has approached this Court for expeditious disposal of the above mentioned case.

I have heard the learned advocate for the petitioner.

The petitioner has annexed the certified copies of the orders staring from the institution of the case on June 11, 2019 till the March 29, 2022. Since entire order sheet of the above mentioned proceedings is before the Court and

considering the prayer made by the petitioner, this Court is of the view that the instant revision can be disposed of here and now.

It is unfortunate to note that an application under Section 12 of the Protection of Women against Domestic Violence Act is pending for more than three years in the Trial Court and even no effective hearing is made till date. The statute provides separate relief to a woman who is a victim of Domestic Violence. However, the instant case is a glaring example where the victim is denied relief as provided under the Act due to one reason or other.

The Learned 2nd Judicial Magistrate, Diamond Harbour goes on passing orders mechanically without taking pro-action steps against the opposite parties to compel their attendance for effecting hearing of the case.

Therefore, the instant revision is disposed of directing the Learned 2nd Judicial Magistrate, Diamond Harbour to take effective step so that the application under Section 12 of the Protection of Women from Domestic Violence Act, being case C-339/2019 should be disposed of within the period of three months from the date of communication of the order. The petitioner is at liberty to act upon the certified copy of the order for the purpose of communicating the direction passed by this Court to the Court below for information and compliance.

Before parting with this matter, it has been mentioned that the Magistrate being Judicial Magistrate or

Additional Chief Judicial Magistrate having empowered to take cognizance or accept an application in a criminal case or criminal proceeding or going on passing initial orders on a cyclostyle or computerized pre-written orders by filling upon the blanks in the order sheet. This practice is not only warranted but also against Rule 183 of the Criminal Rules and Orders and the judgment of this Court in the case of Sharmistha Chowdhury & Ors. Vs. State of West Bengal & Ors. dated July 27, 2017 passed in CRR No.602 of 2017 and subsequently followed in Fabworth Promoters(P) Ltd. & Ors. Vs. State & Ors., dated September 20, 2019 passed in CRR NO. 1395 of 2019.

The Additional Chief Judicial Magistrates in the State of West Bengal are directed to follow the directions contained in the above mentioned judgment passed by this Court and also the direction contained in the instant judgment.

It is seen that in spite of repeated directions, this Court has failed to stop such irregularities and in some cases illegal practice.

Time has come that this issue should be dealt with in strong hands.

Therefore, a copy of this order be circulated to the Learned Sessions Judges in the State of West Bengal and Andaman & Nicobar Islands with a request to circulate this order to all the Magistrates under his/her Judgeship through the Registrar(Judicial Service), High Court, Calcutta.

It is made clear that if in connection any proceeding the similar cyclostyle computerized pre-typed order is made by the Learned Judicial Magistrate/Additional Chief Judicial Magistrate after receiving the copy of this order, necessary action shall be taken by this Court against the concerned Magistrate. It is proposed that non-compliance of the direction passed in the above mentioned cases will be viewed as Contempt of Court and appropriate circumstances will result in initiation of departmental proceeding against the erring Judicial Officers.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Bibek Chaudhuri, J.)