

Form J(2)

**IN THE HIGH COURT AT CALCUTTA  
Criminal Revisional Jurisdiction  
Appellate Side**

**Present :  
The Hon'ble Justice Bibek Chaudhuri**

**CRR 1838 of 2022**

**Minakshi Mandal & Anr.  
Vs.  
The State of West Bengal & Anr.**

**petitioners in person:        Ms. Minakshi Mandal,  
                                                 Dr. Debajyoti Mandal.**

**For the O.P. No. 2        :        Mr. Amarta Ghosh, Adv.,  
                                                 Mr. Sanat Kumar Das, Adv.,  
                                                 Mr. Sujan Chatterjee, Adv.**

**Heard &  
Judgement on        :        27.06.2022.**

**Bibek Chaudhuri, J.**

An application under the Protection of Women from Domestic Violence Act (hereafter referred as the said Act) which was registered as Case No. C – 1556/2020 presently pending before the 6<sup>th</sup> Judicial Magistrate at Alipore, South 24-Parganas is, on the one hand, sought to be transferred from that Court to any other Court of competent jurisdiction and, on the other hand, quashing of the said proceeding

on the ground that the averment made in the application under Section 12 of the said Act is false, concocted and irrelevant.

It appears from the submission made by petitioner no. 1, Minakshi Mandal in person that marriage of his brother, petitioner no. 2 herein was solemnized on 19<sup>th</sup> April, 2019. Immediately after marriage during honeymoon within 25<sup>th</sup> day of such marriage the private opposite party being the wife of the petitioner no. 2 disclosed that she had missed her cycle and she was found to be pregnant. On *bona fide* doubt the petitioner no. 2 asked his wife to have DNA test for confirmation of paternity of the child. The opposite party no. 2 refused and voluntarily left her matrimonial home on 12<sup>th</sup> June, 2019 with all her belongings. In the application under the said Act the opposite party no. 2 as petitioner made false allegations against both the petitioners though in the suit and counter-claim for restitution of conjugal rights being MAT Suit No. 1606/2020 the opposite party no. 2 did not make any allegation against her matrimonial home and the petitioners herein.

The petitioners have prayed for transfer of the case in view of the order dated 20<sup>th</sup> April, 2022 passed by the Learned Judicial Magistrate, 6<sup>th</sup> Court at Alipore in C-1556/2020. 20<sup>th</sup> April, 2022 was fixed for *ex parte* hearing of the case. It is found from the order that

the present petitioners appeared in the Trial Court did not file any application for vacating the *ex parte* order, but on the contrary started misbehaving with the Learned Magistrate, the members of staff of the said Court as well as the Learned Advocate. It is also found from the report that in presence of the Learned Magistrate the petitioner no. 1 lost her calm and slapped one lady Advocate, namely, S. Tarannum. The situation of the Court became too grave to conduct the case. The Learned Magistrate was compelled to leave the Court and informed entire matter vide order dated 20<sup>th</sup> April, 2022 to the Learned Chief Judicial Magistrate at Alipore.

Though it was proposed by the Learned Advocate for the opposite party no. 2 that a report may be called for from the Learned District Judge, South 24-Parganas about the incident that took place on 20<sup>th</sup> April, 2022 and on subsequent incidents evolved around case no. C-1556/2020, I am not inclined to obtain such report because no purpose will be subserved in the matter of disposal of the instant criminal revision. Since the petitioners want transfer of the case under the said Act, complaint case no. C-1556/2020 be transferred to the Court of the Learned Chief Metropolitan Magistrate, Calcutta from the Court of the learned Judicial Magistrate, 6<sup>th</sup> Court at Alipore.

It is made clear that this Court has not passed the above order considering the merit of the order dated 20<sup>th</sup> April, 2022. The order is passed only to dispose of Complaint case no. C-1556/2020 at the earliest.

The petitioners are directed to appear before the Learned Chief Metropolitan Magistrate, Calcutta on receipt of notice of transfer of the case to be served by the Learned Counsel for the opposite party no. 2 in this case.

The Learned Chief Metropolitan Magistrate, Calcutta is requested to dispose of complaint case no. C-1556/2020 expeditiously and preferably within eight months from the date of this order.

Interim application for monetary relief shall be preferably disposed of within one month from the date of communication of the order.

The parties are at liberty to act on the server copy of this order.

The instant application is, thus, **disposed of**.

**(Bibek Chaudhuri, J.)**

**Srimanta, A.R.(Ct.)**