

CRR 31754of 2013

Md. Belall –vs- Huma Ferdous & Anr.

Re: An application under Article 227 of the Constitution of India.

None appears on behalf of the petitioner.

The petitioner has preferred the present revisional application challenging the order No. 2 dated 3.6.2013 passed by the learned Sessions Judge, Howrah in Criminal Appeal No. 49 of 2013 affirming the order dated 30.4.2013 passed by the learned Judicial Magistrate, 2nd Court, Howrah in Misc. Case No. 265 of 2012.

The brief fact of the case is that the opposite party no. 1, filed an application under Section 23 of the Protection of Women from Domestic Violence Act, 2005 in a proceeding under Section 12 of the said Act registered as Misc. Case No. 265 of 2012. Upon hearing the learned Judicial Magistrate, 2nd Court, Howrah allowed the interim maintenance in favour of the opposite party no. 1 to the tune of Rs. 1,500/- per month and Rs. 1,000/- per month for her minor child. The said order of the learned Magistrate was assailed in appeal before the learned Sessions Judge at Howrah being Criminal Appeal No. 49 of 2013. The learned Sessions Judge, Howrah on hearing affirmed the order of the learned Magistrate.

Being aggrieved by and dissatisfied with the aforesaid order, the petitioner has preferred the present revisional application.

It appears from the impugned order under challenge

dated 3.6.2013 that the entitlement to maintenance of opposite party no. 1 was challenged by the petitioner on the ground that no marital tie existed between the petitioner and the opposite party no. 1. in view of Talaq-E-Tafweez dated 19.9.2010. The definition “domestic relationship” under Section 2(f) of the Act means relationship between two persons who live or have at any point of time, lived together in a share household, when they are related to consanguinity, marriage, or through a relationship in the nature of marriage, adoption or are family members living together as a joint family. Referring to the aforesaid definition of “domestic relationship” the learned Sessions Judge upheld the order of the learned Magistrate granting interim maintenance in favour of opposite party no. 1 and her minor child. There is no infirmity or perversity in the impugned order passed by the learned Sessions Judge, Howrah and as such does not call for interference.

Accordingly, the criminal revisional application is dismissed. All connected applications stand disposed of.

Interim order, if any, stands vacated.

Urgent photostat certified copy of this order, if applied for, be supplied expeditiously after complying with all necessary legal formalities.

(Bivas Pattanayak, J.)

