

29.11.2022
Item No. 07
BR

CRR 4591 of 2009

**In the matter of : Syed Aftabur Rahaman and
another**

Mr. Tarapada Das,
Ms. Soma Chakraborty ... for the petitioner

Mr. Soumyajit Das Mahapatra,
Ms. O.Ghosh ... for the opposite party

By filing this application under Section 482 of the Cr P C the petitioner Syed Aftabur Rahaman is seeking an order of quashment of the proceeding being Misc. Case No. 362 of 2009 under Section 12 of the Protection of Women from domestic Violence Act ,2005 read with Section 12/17/18/19 and 20 of the said Act pending before the learned first Court of Judicial Magistrate, Uluberia, Howrah.

Mr. Tarapada Das, learned counsel for the petitioner drawing my attention to the order passed by learned trial Court submits that on 14th December, 2009 learned trial Court was pleased to direct the Protection Officer to file a domestic incident report by 22nd December, 2009 and by the selfsame order respondents were directed to show cause which indicates preconceived mind of learned trial Court.

Admittedly , a married lady depicting herself as neglected wife and who is also subjected to domestic violence, filed an application following the procedure of law . The order impugned does not indicate anything to suggest the proceeding initiated by the opposite party no. 3 Nurani Kanij Gous and her minor son Syed Abdul

Fattah is an abuse of process of law. By filing supplementary affidavit Mr. Tarapada Das further contended that the petitioner has given Talak to his wife. The supplementary affidavit does not indicate that following the mandate of, Hadis such Talak was given. However, I am not going to make any observation as to the validity or legality of such Talak . It should be decided by learned trial Court keeping in mind the judgment of Hon'ble Supreme Court by which this issue has already been set at rest. By filing this petition the petitioner has initiated a proceeding and has been enjoying interim order of stay for last 13 years .

The criminal revision is absolutely devoid of merit and dismissed with cost of Rs. 15,000/- to be paid to the opposite party no. 2 and 3 directly within four weeks from this date . Order of stay stands vacated.

Let a copy of the order be sent to the learned trial Court for information and necessary action. Applications are also disposed of.

All parties are to act on the server copy of this order duly downloaded.

Urgent photostat certified copy of this order, if applied for, be given to the learned Advocates for the parties on the usual undertakings

(Siddhartha Roy Chowdhury, J.)