

14.09.2022

Item No.7

Ct.No.2

dc.

**IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI
CRIMINAL REVISIONAL JURISDICTION**

C.R.R. 182 of 2022

**Bhatu Roy & Anr.
versus
The State of West Bengal & Anr.**

Mr. Arijit Ghosh,
Ms. Swarnali Ghosh (Sengupta) ... For the Petitioners.

Mr. Aditi Shankar Chakraborty,
Mr. Sourav Ganguly ... For the State.

This revisional application has been preferred challenging the order dated 27.07.2022 passed by the learned Additional District and Sessions Judge, 3rd (Special) Court, Jalpaiguri in Criminal Appeal No. 2 of 2022 under Section 29 of the Protection of Women from Domestic Violence Act, 2005. The said order was passed in respect of the reliefs granted by the learned Chief Judicial Magistrate, Jalpaiguri in the order dated 04.04.2022.

Learned advocate appearing for the petitioners submits that the petitioners are senior citizens being the father- in-law and mother-in-law of the private opposite party no.2, but by misinterpreting and abusing the order passed by the learned Chief Judicial Magistrate, Jalpaiguri on 04.04.2022 and affirmed on 27.07.2022, the opposite party no.2 has evicted and thrown away the aged father-in-law and mother-in-law.

Earlier a report was called for. Accordingly, the report dated 13.09.2022 submitted by the concerned officer of Bhaktinagar Police Station be kept on record.

The report reflects the exact position as has been submitted by the learned advocate appearing for the petitioners. It is a cause of anxiety that senior citizens have been thrown out of their home pursuant to directions passed by the learned trial court under the Protection of Women from Domestic Violence Act, 2005 which never directed the senior citizens to be thrown out of their residence. Such order of the learned trial court and the learned appellate court were misinterpreted and the present petitioners were thrown out, if at all. The remedy of the senior citizens obviously would be to invoke jurisdiction of the learned Tribunal under the provisions of Maintenance and Welfare of Parents and Senior Citizens Act, 2007.

The petitioners have preferred an application before the learned Maintenance Tribunal (Sadar), Jalpaiguri being Misc. Petition No. 255 of 2021. The order dated 08.03.2022 was also passed by the said Tribunal. The petitioners are directed to pursue the proceedings before the Tribunal.

The Tribunal would consider the aspect of the senior citizens keeping in mind the spirit for which the legislation was enacted.

This Court does not find any illegality in the order passed by the learned Chief Judicial Magistrate, Jalpaiguri or the learned appellate court. As such, there is no scope for interference or the reliefs prayed for before this Court.

With the aforesaid observations, the revisional application being CRR 182 of 2022 is disposed of.

All pending connected applications, if any, are consequently disposed of.

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

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Tirthankar Ghosh, J.)