

Form J(1)

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

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

CRR 1581 of 2022

**Malabika Ghosh (Dutt Mazumder)
Vs.
State of West Bengal & Anr.**

For the petitioner : Ms. Papiya Chattapadhyay, Adv.

**For the State : Mr. Madhusudan Sur, Adv.
Mr. Dipankar Paramanick, Adv.**

Judgement on : 18.01.2023.

Bibek Chaudhuri, J.

Affidavit-of-service filed in Court today be kept with the record.

An unfortunate incident of procrastination of a proceeding under the Protection of Women from Domestic Violence Act is portrait in the instant revision. The petitioner is the married wife of opposite party no. 2. She filed an application under Section 12 read with other cognate provisions of the said Act which was registered as that Case No. 180/2012 before the learned Chief Judicial Magistrate, Bidhannagar, North 24-Parganas.

In the said proceeding the petitioner prayed for interim monetary relief under Section 23 of the said Act. The learned Additional Chief Judicial Magistrate, Bidhannagar rejected the prayer

of the petitioner. Being aggrieved, the petitioner preferred an appeal before the learned Sessions Judge at Barasat which was registered as Criminal Appeal No. 71/2014. The said appeal was dismissed on contest vide judgement dated 15th March, 2016.

Since then, it is alleged on behalf of the petitioner that the record of C. Case No. 180/2012 has not been transmitted to the Court of the learned Additional Chief Judicial Magistrate, Bidhannagar. The lower Court record is still lying in the Court of the learned Additional Sessions Judge, 4th Court at Barasat.

The petitioner has approached this Court, under the above factual backdrop, for a direction upon the learned Additional Sessions Judge, 4th Court at Barasat to transmit the said record to the Court of the learned Additional Chief Judicial Magistrate, Bidhannagar so that petitioner's application under Section 12 of the Protection of Women from Domestic Violence Act can be heard and disposed of.

It is the duty of the Appellate Court to send down the lower Court record immediately on disposal of the appeal. I am surprised to note that for such purpose the petitioner had to file a revisional application.

The learned additional Sessions Judge, 4th Court at Barasat is directed to send down the record of C. Case No. 180/2012 within one week from the date of communication of this order. Let a copy of this order be sent to the learned Sessions Judge, North 24-Parganas at Barasat through the Registrar (Judicial Service), High Court, Calcutta requesting her to see that the direction passed by this Court be complied with within the timeframe. The learned District Judge is also requested to issue a general notice, if she thinks proper directing the learned Judges under his administrative control to take step for

transmission of lower Court record lying with Appellate Courts immediately on disposal of the appeal.

The learned Advocate for the petitioner is at liberty to mention the matter if the direction made in this order is not complied by the learned Judge in the Appellate Court within the timeframe.

With the above order, the instant revision is disposed of.

(Bibek Chaudhuri, J.)

Srimanta, A.R.(Ct.)
Item No. 24.