

08.5.2023
12 & 13
SB
Ct. No.236

CRR 1572 of 2012
+
CRR 1423 of 2014

In the matter of : Kaushik Pal & Anr.

Despite service of notice none is appearing on behalf of either of the parties.

This revisional application is pending since 2014. I do not find any reason to adjourn the case *suo moto*. Rather I am inclined to dispose of the matter on merit based on materials available with the record.

By filing this application under consideration the petitioners are seeking an order of quashment of the order dated 31.01.2012 passed by the learned Additional Chief Judicial Magistrate, Serampore, admitting the application under Section 12 of the Protection of Women from Domestic Violence Act, 2005 in a proceeding in MC Case No. 29 of 2012.

Briefly stated, Smt. Anjana Pal filed an application under Section 12(1) of the P.W.D.V. Act against her husband Kaushik Pal and other inmates of her matrimonial home. Notice was served upon the opposite parties. The petitioner being the husband appeared before the learned Trial Court and prayed for an order of stay from all further proceeding on the ground that at the instance of his wife Udaynarayanpur P.S. Case 312/11 dated 27.12.2011 under Sections 498A/406/34 of the Indian Penal Code read with Sections 3 / 4 of the D.P. Act was pending, otherwise it would be

an infraction of provision under Article 20(3) of the Constitution of India. Learned Trial Court after hearing both the parties passed an order giving his reasons for not acceding to the prayer of the petitioner. The said order was challenged in Criminal Appeal No. 7 of 2013 and the learned Appellate Court refused to interfere with the order impugned. The petitioner has challenged the order passed by learned Additional Chief Judicial Magistrate and not the order passed by learned Additional District and Sessions Judge in Criminal Appeal No. 7 of 2013.

Be that as it may, law does not impose any fetter upon the petitioner to take out application under the P.W.D.V. Act, pending proceeding under Section 498A of the Indian Penal Code.

The revisional application is devoid of merit and is dismissed, however, without any order as to costs.

Let a copy of the order be sent to the learned Trial Court for information and necessary action.

(Siddhartha Roy Chowdhury, J.)