

28.08.2023
Serial no. 3
[G.S.D]

CRR 3122 of 2023

In the matter of : Surendra Kumar Agarwal & Ors.
... .. Petitioners

Mr. G. K. Singh

... for the petitioners

The petitioners have challenged the proceedings arising out of Misc. Case No. 961 of 2022 pending before the Learned CJM, Howrah, which was subsequently transferred to the Court of Learned J.M., 2nd Court, Howrah.

Learned Advocate for the petitioners submits that the proceedings were initiated under Section 12 of the PWDV Act at the instance of one Sweta Agarwal against the number of relatives, who had not shared the common household or had no relationship as such for bringing them within the ambit of domestic relation as described in the provisions of PWDV Act.

Learned Advocate, on being questioned by this Court regarding the availability of the statutory provisions not being exhausted under Section 29 of the PWDV Act, has referred to a judgment of the Hon'ble Karnataka High Court

and submits that the said judgment of the Hon'ble Karnataka High Court decided in Criminal Petition No. 200009/2021 empowers the present petitioners to approach this Court for canvassing their grievances under Section 482 of the Code of Criminal Procedure.

Ordinarily, when statutory power is vested and the issue which has been canvassed by the petitioners that they have been harassed, which is the question of fact, the same has to be appreciated in an exhaustive manner in an appeal for which the statutory powers have been granted under Section 29 of the PWDV Act.

The power of this Court, while exercising the jurisdiction under Section 482 of the Cr.P.C., is always available but the same is only in exceptional circumstances.

The petitioners have failed to make out any case of exceptional circumstances as it relates to question of facts, which is on the foundation of harassment, and is to be decided by the Learned Trial Court and to be canvassed before the Appellate Court

Hence, I do not find, at the first instance, that this is a fit case for interference by invoking the jurisdiction under Section 482 of the Cr.P.C.

Accordingly, CRR 3122 of 2023 is dismissed.

Pending application, if any, is also dismissed.

Parties to act on a server copy of this order duly collected from the official website of the Hon'ble High Court at Calcutta.

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

(Tirthankar Ghosh, J.)