

November 19, 2024
17 ARDR

CRR 878 of 2024
Along with
CRAN 1 of 2024

Swarup Kumar Sen
Vs.
The State of West Bengal & ors.

Adv. S. S. Roy,
Adv. Kaushik Choudhury,

...for the petitioner.

Adv. Soumik Ganguly,
Adv. Chandana Chakraborty

...for the State.

The petitioner is aggrieved by the order passed by the learned Additional Sessions Judge, 2nd Court, Bankura in Misc. case no.148 of 2023 on 9th January, 2024 in connection with Criminal Misc. case no.1 of 2023.

Heard learned counsels for the parties.

By an order passed on 6th December, 2019 by the learned Judicial Magistrate, 7th Court, Bankura in connection with an application under Section 12 of the Protection of Women from Domestic Violence Act filed by the opposite party, the petitioner was restrained from repeating any act of domestic violence against the 2nd opposite party or her relatives in any manner and directed to pay Rs. 4 lakhs to the 2nd opposite party as compensation within six months from the date of the order. The said order was carried in appeal by the petitioner before the learned Additional Sessions Judge, 2nd Court, Bankura and by a judgment delivered on 8th April, 2021 in Criminal Appeal no.1 of 2020, the learned Appellate Court allowed the appeal and directed the petitioner to allow the 2nd opposite party to reside in her matrimonial home subject to convenience of the aggrieved wife. The petitioner was also restrained from dispossessing the aggrieved wife from the shared

household and committing any act of domestic violence upon her. The petitioner filed a revisional application before this Court against the said order being CRR 1406 of 2021 and by an order passed on 31st January, 2023, a coordinate Bench of this Court recorded that the willingness of the petitioner to provide alternative accommodation to the 2nd opposite party and bear the cost of the same was a changed circumstance which was not considered by the learned Appellate Court. The petitioner was granted liberty to place the said proposal of providing alternative accommodation to the 2nd opposite party before the learned Appellate Court. However, the judgment of the learned Appellate Court was affirmed in its entirety upon an observation that there was no illegality in the said judgment.

Pursuant to the order of this Court, the petitioner filed an application before the learned Appellate Court which was registered as Misc. case no. 148 of 2023 and by the order impugned dated 9th January, 2024 the learned Appellate Court turned down the proposal of the petitioner for alternative accommodation. Learned Court has held that the issue of shared household was discussed extensively by the Court in the judgment dated 8th April, 2021 which was affirmed by this Court in CRR 1406 of 2021. The only issue that was taken up for consideration by the learned Appellate Court was whether the proposal for alternative accommodation for the wife could be accepted and a direction to that effect be given.

The learned Court has discussed the issue at length upon recording the refusal of the wife to stay in such alternative

accommodation. The learned Court has passed a reasoned and speaking order in turning down the prayer of the petitioner.

The earlier judgment delivered by the learned Appellate court has been affirmed by this Court in its entirety. This Court additionally granted liberty to the petitioner to make a proposal before the learned Appellate Court for providing alternative accommodation to the wife. The matter was sent before the learned Appellate Court for the limited purpose of dealing with the said issue. The same was turned down, not only on the ground of refusal of the wife, but also for reasons recorded by the learned Appellate Court in the order impugned. Since the parent judgment has been affirmed by this Court and remains unchallenged, no further relief can be granted to the petitioner for refusal of the learned Appellate Court to accept his proposal.

There is no illegality in the order impugned which requires intervention by this Court.

In view of the above, the revisional application fails.

CRR 878 of 2024 is dismissed.

As a consequence the application, being CRAN 1 of 2024 is disposed of.

There shall however, be no order as to costs.

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

(Suvra Ghosh, J.)