

07.11.2024
rc/ct.no.34
Item No.101

CRR No. 2472 of 2024

In the matter of : Sankar Pramanik

.....Petitioner

Mr. Ranjit Kumar Roy

...for the Petitioner

Mr. Pinaki Bhattacharyya

Mr. Amartya Mohan Bhattacharyya

...for the O.P.

Supplementary affidavit filed by the petitioner is taken on record.

Heard learned counsels for the parties.

The petitioner has assailed the order passed by the learned Judicial Magistrate, 9th Court, Alipore on March 19, 2024 in AC No. 877 of 2011 rejecting the prayer of the petitioner to further cross-examine the opposite party under Section 311 of the Code of Criminal Procedure.

Learned counsel for the petitioner submits that after closure of cross examination of PW-1/ the private opposite party, it was found that 2 important questions were missed to be asked to the witness for which recalling of the witness for further cross examination is required.

Per contra, learned counsel for the opposite party submits that cross examination of PW-1 was concluded in 2018 and after remaining silent for considerable period of time, the petitioner

chose to file the application under Section 311 of the Code only to protract the proceedings before the learned Trial Court.

It appears that the 2 questions proposed to be asked to PW-1 by the petitioner are part of the show cause filed by the petitioner in reply to the application filed by the private opposite party under Section 12 of the Protection of Women from Domestic Violence Act. Evidence of PW-1 was concluded in 2018 and the petition under Section 311 of the Code was filed on November 18, 2022. The application was disposed of only by the order impugned dated March 19, 2024.

Since the questions intended to be asked to PW-1 is part of the show cause filed by the petitioner, the petitioner is allowed to put such questions to the witness upon recalling her. Due to inordinate delay on the part of the petitioner to file the said application which has definitely caused considerable delay in disposal of the case the application filed by the petitioner on November 18, 2022 be allowed subject to payment of cost of Rs.10,000/- by the petitioner to the private opposite party.

The revisional application being CRR No. 2472 of 2024 is accordingly allowed.

The order impugned dated March 19, 2024 passed by the learned Judicial Magistrate, 9th Court, Alipore in AC No. 877 of 2011 is set aside.

The learned Magistrate is directed to take necessary steps for recalling PW-1 for her cross examination by the petitioner strictly in terms of the application made by the petitioner.

Since the matter is pending since 2011, learned Magistrate should make all endeavour to dispose of the matter as expeditiously as possible without granting any unnecessary adjournment to either of the parties, in accordance with law.

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

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

(Suvra Ghosh,J)