

03.04.2024
Sl.No. 39
Ct. 32
Amalranjan

In The High Court At Calcutta
Criminal Revisional Jurisdiction
Appellate Side

CRR 2421 of 2018

Tarapada Mahanti and anr.
Vs.
Smt Atashi Mahanty and anr.

Nobody appears on behalf of either of the parties on call.

This case pertains to the year 2017.

The petitioners filed this application under section 482 of the Criminal Procedure Code, 1973 seeking quashing of the proceedings of complaint case no. 646 of 2017 in respect of the present petitioners under section 12 of the Protection of Women from Domestic Violence Act, 2005 read with section 18/19/20/21/22/23 of the said Act.

Accordingly, this matter is taken up for disposal on merit, as the case is pending since 2018 and to avoid further delay. Nobody appears on behalf of the petitioners on call. Even on earlier occasion no one represented the petitioners, no accommodation sought for.

The brief fact of the instant application is relevant for the purpose of disposal of this case.

The opposite party no. 1 instituted a complaint case no. 646 of 2017 in respect of the present petitioners under section 12 of the Protection of Women from Domestic Violence

Act, 2005 read with section 18/19/20/21/22/23 of the said Act.

After hearing the said case on contest, the learned Judicial Magistrate awarded an interim order of maintenance under section 23 PWDV Act to the tune of Rs. 3,500/- for the wife and a further sum of Rs. 2000/- for the maintenance of her daughter, in addition to that a further sum of Rs. 3,000/- award for alternative residence and the said amount should be paid within 7 days from the date of passing of this order and for the every next ensuing month by every 7th day of ensuing month till any further order in this context, that is the subject matter of challenge herein.

It is the contention of the petitioners that the opposite party no. 1/wife herein herself chosen to move from her matrimonial home without any specific reason. The opposite party no. 1/wife had left her matrimonial home upon her own whim and choice and she never come back to her matrimonial house to live and perform her conjugal life with her husband. All the time she pressurised her husband to give divorce and when her husband refused to give his consent for divorce, she filed another case being Balarampur police station case no. 31 of 2017 dated 22.04.2017 under section 498A/506 of the IPC and after investigation a chargesheet has been submitted vide chargesheet no. 50/2017 dated 26.7.2017 under section 498A/506 of the IPC read with section 3 /4 of the D.P. Act though the entire case was out and out false and fabricated. She is not entitled any

maintenance or any other relief under the Protection of Women from Domestic Violence Act, 2005.

They prayed for quashing of the said proceedings.

Upon perusal of the application meticulously and the annexures thereto and the impugned order dated 8.5.2018 this court finds the opposite party no. 1 is a legally married wife and their marriage was solemnised on 27.01.2012 according to the Hindu Rites and Customs.

At the time of marriage a huge amount was paid towards dowry, but despite payment of such dowry the respondent/ opposite party demanded a further sum of Rs. 3 lakhs from the father of the petitioner. A female child was born on 15.04.2015 from the said wedlock. But her husband did not perform the duty as a father as well as her husband due to such situation, she had to leave her matrimonial home and started residing in her parental house.

The husband also neglected to maintain the wife and child. Accordingly, she compelled to file an application under section 12 of the Protection of Women from Domestic Violence Act, 2005 and prayed for some relief.

After hearing both sides, interim maintenance was allowed to the wife and daughter. Learned Magistrate also allowed a sum of Rs. 3000/- in order to get an alternative residence.

I do not find any infirmity or illegality in the said order, since there is matrimonial dispute between the parties and his income was about Rs. 2,31,020/- for the financial

year 2016-2017. Not only that it is bounded duty of the husband to maintain his wife and his minor child when she has no income to maintain her and her child.

Under such circumstances, this court does not find any merit in the instant case for quashing of the proceeding. The impugned order passed by the learned Magistrate is correct, legal and without error any jurisdiction and law.

Under the above facts and circumstances, the instant revisional application is devoid of merit. Consequently, **CRR 2421 of 2018** is, thus, dismissed without any order as to costs.

Interim order, if any, stands vacated.

Let the order be communicated to the Ld. Court below for information.

Liberty is granted to all parties to act in terms of the copy of this order downloaded from the official website of this court.

Urgent Photostat certified copy of this order, if applied for, be supplied to the parties taking all legal formalities.

(Ajay Kumar Gupta, J.)