

CRR 2211 of 2025

Sujal Kumar Malik
Vs.
The State of West Bengal & Anr.

Mr. Sujal Kumar Malik

... for the Petitioner
(in person)

This is an application wherein the petitioner has prayed for exemption from personal appearance and expeditious disposal of complaint case no. 67 of 2021 initiated by opposite party no.2 herein under Section 12 of the Protection of Women from Domestic Violence Act, 2005.

Petitioner's contention is that the proceeding in a quasi-civil in nature but the trial court without any cogent reason has repeatedly directed personal appearance of all the respondents rejecting their applications for exemption. His further contention is opposite party no.2 herein deliberately caused delay for the last four years being failed to complete her evidence despite multiple opportunities. He also argued that court below while rejecting their prayer failed to consider that petitioner/husband is a working professional based in Visakhapatnam and his family members i.e. other respondents include an ailing senior citizen, mother of petitioner, a brother undergoing medical treatment for ulcerative colitis and co-respondents with infant children, are facing severe hardship in physically attending the court on each and every occasion. He made two applications before the Court and learned Court below by the impugned order dated 21.11.2024, rejected the prayer made by the petitioners on the

ground that the respondents were directed to appear on 20th July, 2024 but they did not appear and they are applying dilatory tactics with the court for rejecting the proceedings.

Having heard the petitioner who is appearing in person through virtual mode it appears that the court below in his impugned order, has not mentioned as to why the personal appearance of the present petitioner and the other respondents were necessitated in spite of observing that the proceeding is quasi civil in nature.

It is well settled that the approach of Magistrate in such cases should be to see whether personal attendance is absolutely necessary for the purpose of the case and he should not adopt too technical or stringent approach, though at the same time the discretion should not be used liberally for the mere asking for it. In such cases regard should be had the exceptional circumstances likely to suffer on account of distance or physical disability or for any such good reasons. In other words power to refuse exemption from personal appearance should not be used as a substitute for ultimate punishment.

Therefore, liberty is given to the petitioner to make a fresh prayer before the court below seeking personal exemption, if required and in the event of filing such application by the petitioners, the court below will pass a reasoned order in the light of observations made herein.

The Trial court is also directed to expedite the trial keeping it in mind the mandatory direction made in the statute under section 12(5) of the Act to make best every endeavour to dispose of

every application under section 12, within 60 days from it's first hearing.

Therefore, the impugned order dated 21.11.2024, so far it relates to the refusal of the petitioner's prayer for exemption from personal appearance, is hereby set aside.

CRR 2211 of 2025 is accordingly disposed of.

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

(Dr. Ajoy Kumar Mukherjee, J.)