

16.06.2025
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**CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI
APPELLATE SIDE**

C.O. 56 of 2025

**Gouri Sehanabish @ Gouri Chakraborty
-Vs-
Bhaskar Sehanabish**

Mr. Jagriti Mishra,
Ms. Ananya Bhattacharya
Ms. Mirnmayee Das

... for the petitioner

Ms. Suman Sehanabis,
Ms. Anwasha Chakraborty

... for the opposite party

The subject matter of challenge in this revisional application is an interim order passed in an appeal being O.C. Criminal Appeal No. 01 of 2024 preferred by the petitioner (husband) under Section 29 of the Protection of Women from Domestic Violence Act, 2005 (in short, 'D.V. Act') challenging the order passed in an application filed by the opposite party (wife) under Section 12 of DV Act.

The opposite party (wife) at the threshold has objected to the maintainability of the civil revisional application. According the opposite party, the provisions of Section 28 of the DV Act clearly stipulate that save as otherwise provided in the said Act, all proceedings under Sections 12, 18, 19, 21, 22 and 23 and offences under Section 31 shall be governed by the provisions of the Code of Criminal Procedure, 1973 (in short, Cr.P.C.)

Furthermore, according to the opposite party, Rule 6 of the Protection of Women from Domestic Violence Rules, 2006 (in short, the said Rules) also says that an application under Section 12 of DV Act shall be dealt with and the orders enforced in the same manner as laid down under Section 125 Cr.P.C. This revisional application, therefore, is not maintainable according to the opposite party.

On behalf of the petitioner, it is fairly submitted by citing two judgments, one passed by Madurai Bench of Madras High Court on 15th April, 2024 in **C.R.P.(MD) No. 833 of 2024 and C.M.P. (MD) No. 4647 and 4648 of 2024 (M. Amanullah & Ors.- Versus- Bharakathbegam & Anr.)** and the other judgment delivered by 19th January, 2024 by the Delhi High Court in **CRL. REV.P. 224 of 2021 (Sapna Paul – Versus- Rohin Paul)** that in the event, the challenge is to the order under Section 12 of the DV Act then a civil revisional application under Article 227 of the Constitution of India is maintainable but when the order passed by the Sessions Court under Section 29 of the DV Act is assailed the challenge has to be under Sections 401 and 482 of Cr.P.C. corresponding to Sections 442 and 528 of Bharatiya Nagarik Suraksha Sanhita (BNSS) 2023.

After hearing the parties and considering the materials on record, I find that the objection raised by the opposite party is a matter of substance. Moreover, the petitioner has also by citing judgments fairly

conceded that the order passed in O.C. Criminal Appeal No. 01 of 2024 by the Additional District Judge, Mathabhanga, Cooch Behar under Section 29 of the DV Act is assailable only by filing a criminal revisional application under Sections 442 and 528 of the BNSS.

In the aforesaid facts and circumstances, the present revisional application being C.O. 56 of 2025 is dismissed as withdrawn on the prayer of the petitioner by granting the petitioner liberty to challenge the said order in accordance with law before the appropriate forum.

(**Arindam Mukherjee, J.**)