

(2021) 02 CAL CK 0004
In the Calcutta High Court
Case No : C.R.R. 232 Of 2021

Apu Kundu

APPELLANT

Vs

State Of West Bengal & Anr.

RESPONDENT

Date of Decision : 19-02-2021

Acts Referred:

Protection Of Women From Domestic Violence Act, 2005 — Section 29

Citation : (2021) 02 CAL CK 0004

Hon'ble Judges : Jay Sengupta, J

Bench : Single Bench

Advocate : Jagadis Chandra Majumder, Shibaji Kumar Das, Rupsa Sreemani, Ayan Bhattacharjee, Avik Ghakta, Sohan De Dhara, S. Choudhury

Final Decision : Disposed Of

Judgement

Jay Sengupta, J

This is an application challenging the order no.13 dated 19.01.2021 passed by the learned Additional Sessions Judge, Fast Track Court-IV,

Barrackpore, North 24 Parganas in Criminal Appeal No.14 of 2019 under Section 29 of the Protection of Women From Domestic Violence Act, 2005.

An original copy of the application, along with corresponding receipt, praying for supply of a certified copy of the order dated 22.02.2021 passed by

the learned Appellate Court, as filed in Court, is taken on record.

Learned counsel appearing on behalf of the petitioner husband submits as follows. The petitioner is the respondent in the appeal preferred by the

opposite party no.2 being Criminal Appeal No.14 of 2019 challenging an order passed under the Protection of Women From Domestic Violence Act,

2005. The wife had challenged the order of learned trial court whereby no maintenance allowance was granted to her and also about the insufficiency

of maintenance allowance granted to the minor child. On 19.01.2021, an adjournment was prayed for on behalf of the respondent husband by his

learned advocate as the learned advocate was busy in a sessions trial. The learned trial court was pleased to impose a hefty cost of Rs.10,000/- and

fixed the next date as 02.02.2021. On 02.02.2021, the learned appellate court was pleased to close the arguments and fix 23.02.2021 for judgment.

The petitioner was not heard in the appeal where he was a respondent. Although the petitioner had applied for certified copy of the order dated

02.02.2021, the same was not supplied to him.

Learned counsel for the opposite party no.2 submits as follows. On several dates the present petitioner had prayed for adjournments before the

learned appellate court. In fact, on an earlier date a cost of Rs.1,000/- had to be imposed, which has not been paid yet. The petitioner continued to

avoid the court on some pretext or the other. The learned trial court quite rightly imposed a cost of Rs.10,000/- upon the present petitioner on

19.01.2021 for delaying the matter. Even on the next date the petitioner did not take steps except for communicating about the pendency of this

application.

I have heard the submissions of the learned counsels appearing on behalf of the petitioner and the opposite party no.2 and have perused the revision

petition.

A right of hearing is too precious a right that is required to be scrupulously respected. It is a fundamental right of a litigant guaranteed by our

Constitution.

However, it appears from the order sheet that the petitioner had prayed for adjournment on several occasions.

As such, the learned appellate court was justified in imposing a cost of Rs. 10,000/- on 19.01.2021.

In view of the above and in the interest of justice, this Court is of the view that another opportunity of hearing may be granted to the present petitioner

as a last one.

Accordingly, the learned appellate court is requested to fix a date for hearing the present petitioner and thereafter, to conclude the proceeding at the

earliest.

However, I have no reason to interfere with the impugned order so far as the imposition of cost is concerned.

The petitioner is directed to pay the costs imposed by the learned appellate court by the next date of hearing.

With these observations, the revisional application is disposed of.

Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.