

M case no. 289/2021

Order dated 10.12.2025

Today is fixed for hearing of interim maintenance petition filed by the petitioner and filing of W/O in the meantime.

Petitioner file hazira. Op files hazira.

OP also files a verified petition praying for disposal of the instant case on the ground stated therein. Copy served.

Interim maintenance petition filed by the petitioner is not pressed and accordingly stands rejected.

Now, the petition dated 10.12.2025 filed by OP is taken up for hearing.

Ld. Counsel appearing for OP submitted that the petitioner has already filed an application under Protection of Women from Domestic Violence Act, 2005 (hereinafter referred PWDV Act) praying for monetary relief before at Baruipur Court vide Misc no. 127 of 2022 wherein monetary relief has been granted in favour of petitioner and her minor daughter. Hence, the instant case is not maintainable as the same attracts the principal of double jeopardy.

Ld. Counsel for the petitioner submitted that there is no bar in proceeding with application u/s 125 Cr.P.C and another application u/s 12 of the PWDV Act. The Ld. Counsel relied on the observation of Hon'ble Bombay High Court passed in Bhagyashree W/O Purshottam @ Pritesh Chaudhari Vs. Purshottam @ Pritesh S/O Suresh Chaudhari on 23.11.2022. Accordingly the Ld. Counsel prayed for rejection of the petition under consideration.

After going through the submission of Ld. Counsel of both the side, content of petition and other material on record, admittedly petitioner has filed an application u/s 12 of the PWDV Act before Criminal Court, Baruipur, South 24 Parganas and prior to institution of the said case the instant case has been filed. The instnat case is fled u/s 125 of the Cr.P.C. Considering the principle laid down by Hon'ble Supreme Court of India in Rajnesh Vs. Neha reported in (2021) 2 SCC 324 and Hon'ble Bombay High Court passed in Bhagyashree W/O Purshottam @ Pritesh Chaudhari Vs. Purshottam @ Pritesh S/O Suresh Chaudhari, there is no bar in simultaneously proceedings for maintenance under different enactments of our country.

Accordingly the petition filed by the OP dated 10.12.2025 is considered and **rejected** without order as to cost.

To for further examination in chief.

A.C.J.M,D/H