

THE HIGH COURT OF TRIPURA
A G A R T A L A

Crl. Pet. No. 27 of 2011

Petitioner :

Shri Krishna Kanta Paul,
S/o. Late Jogesh Chandra Paul,
C/o. Shri Narayan Ghosh,
Resident of Durjoy Nagar, Agartala, Post
office: Agartala Aerodrome-799009, Police
Station : Airport, District-West Tripura.

By Advocate :

Mr. D. Chakraborty, Sr. Adv.

Respondents :

1. State of Tripura.

2. Shri Uttam Paul,
Son of Shri Krishna Kanta Paul, resident of
Master Para, Town Pratapgarh, Post Office:
Agartala-799001, Police Station-West
Agartala, District-West Tripura.

3. Smti Arati Bhowmik,
W/o. Shri Narayan Bhowmik,
C/o. Shri Haridas Bhowmik alias Joy Shil,
Resident of Subhash Nagar Chowmohani,
Post Office-Jogendra Nagar-799010, Police
Station-East Agartala, District-West Tripura.

By Advocate :

Mr. A. Ghosh, P. P.

B E F O R E
HON'BLE THE CHIEF JUSTICE MR. DEEPAK GUPTA

Date of hearing & : **14th July, 2015**
Judgment & Order

Whether fit for reporting :

Yes	No
	✓

J U D G M E N T & O R D E R(oral)

This petition under Section 482 Cr. P.C is directed against the
order dated 01.09.2011 passed by the Chief Judicial Magistrate, West
Tripura, Agartala whereby he rejected the petition filed by the petitioner

under Section 239 Cr. P.C and held that charge yet to be framed against the accused for various sections other than Section 497 IPC.

[2] Shorn of unnecessary details, the allegations in the complaint are that one Arati Bhowmik who stated to be the wife of one Sri Narayan Bhowmik left her matrimonial home and started living in adultery with the petitioner herein.

[3] According to the prosecution, Arati Bhowmik left the house of her husband Narayan Bhowmik sometime in the year 1998 alongwith her children Sandhya Bhowmik and Benoy Bhowmik. It is alleged that after Arati Bhowmik left her matrimonial home she continuously lived with the petitioner, Krishna kanta Paul at various residences. The complaint was filed by one Sri Uttam Paul, son of the petitioner herein. According to the complainant the father committed offences punishable under Sections 497/468/419/417 of the IPC in as much as he and Arati Bhowmik while getting the daughter of Arati Bhowmik, namely, Sandhya Bhowmik admitted in school changed her name to Soma Paul and showed her to be the daughter of Arati Bhowmik and Krishna Kanta Paul.

[4] The trial Court held that the offence under Section 497 IPC could only be investigated if the complaint was made by the aggrieved spouse and since Narayan Bhowmik had not made any complaint no action could be taken.

[5] At this stage I am not going into the question under which section the charge is to be framed. However, one thing is clear that as the allegations stand on the record, the case of the prosecution is that the petitioner has wrongfully impersonated himself to be the father of the child.

This Court is not commenting on the facts of the case and it is the trial Court to see under what Section charge has to be framed. However, it cannot be said that this is a case of no evidence where no charge can be framed.

[6] Therefore, the petition is rejected but it is made clear that while framing charges the trial Court shall be at liberty to see whether charge can be framed under Sections 417, 468, 419 IPC or under any other Section. The petitioner is directed to appear before the trial Court on 17th August, 2011 and thereafter the trial Court shall proceed to hear and decide the matter as early as possible.

[7] Criminal Petition is disposed of in the aforesaid terms.

Send down the LCRs forthwith.

CHIEF JUSTICE