

IN THE CIRCUIT BENCH OF CALCUTTA HIGH COURT AT JALPAIGURI
CRIMINAL REVISIONAL JURISDICTON

Present:- The Hon'ble Justice Manojit Mandal

C.R.R. No. 31 of 2019

Pankaj Guha & others.

V

The State of West Bengal & another.

For the petitioners	: Mr. Avrojoyti Das, Adv. Ms. Riya Agarwal, Adv. Mr. Rahul Kedia, Adv.
For the State	: Mr. Arun Kumar Sarkar, Adv. Mr. Abhijit Sarkar, Adv.
For the Opposite party No. 1	: Mr. Arnab Saha, Adv.
For the Opposite party No. 2	: Mr. Uttam Kumar De, Adv. Mr. Sourav Ganguly, Adv. Ms. Writi De, Adv.
Heard on	: 20.08.2019
Judgment on	: 22.08.2019

Manojit Mandal, J.:- The instant case arises out of an application under Section 482 of the Criminal Procedure Code, 1973.

2. By filing such application, petitioners sought for quashing of the charge-sheet and/or the entire proceedings being charge-sheet No. 87/18 dated 28.02.2018 under

Sections 498A/109/306 of the Indian Penal Code, 1860 in connection with Alipurduar Police Station Case No. 661 of 2017 (corresponding to G.R. No. 2404/17) dated 27.12.2017 under Sections 498A/109/306 of the Indian Penal Code, 1860, now pending before the Additional Chief Judicial Magistrate, Alipurduar.

3. Grievances of the petitioners may briefly be stated as follows:-

On the basis of the written complaint lodged by one Uttam Majumder, Alipurduar Police Station Case No. 661 of 2017 dated 27.12.2017 under Sections 498A/109 of the Indian Penal Code was started. It was alleged in the said written complaint that sister of the *de facto* complainant namely Latika Guha was married to petitioner No. 1 on 30.01.1997 according to Hindu Rites and Customs. After few days of marriage, his sister was subjected to torture both physically and mentally by the petitioners but she has borne it all to save her marriage. On 03.12.2017 at about 11.30 hours his sister being unable to bear the pressure of torture and quarrels with her husband set herself on fire. As a result, his sister sustained injuries on her person and was taken to Alipurduar Railway Junction Hospital for treatment by petitioner No. 1 and subsequently, she was admitted at Anandoloke Nursing Home, Siliguri on critical condition. The victim finally succumbed to injuries on 28.12.2017 at 9.50 a.m.

4. The petitioners have, thus, been falsely implicated and this was done to wreak vengeance upon them and to spite them in the eye of the society. The petitioner Nos. 1 and 2 were arrested and subsequently released on bail. Petitioner No. 3 was granted pre-arrest bail by this Court. After completion of investigation, the Investigating Authority submitted charge-sheet being charge-sheet No. 87/18 dated 28.02.2018 under

Sections 498A/109/306 of the Indian Penal Code before the learned Court of Additional Chief Judicial Magistrate, Alipurduar against the present petitioners. Learned Magistrate took cognizance of the said alleged offence. The allegations made in the complaint, even if taken in its entirety do not reflect the essential ingredients of the offences as alleged. Continuation of such proceeding will, thus, amount to abuse of the process of the Court and, as such, the present application was filed with the prayer for quashing of the charge-sheet and/or the entire proceeding under reference.

5. Learned advocate appearing for the petitioners submitted that there is no material available before the learned Court of Magistrate so as to justify further proceedings of this case. He further urged that the petitioners are innocent and in no way connected with any offence for less the offences alleged in the complaint filed by the Opposite party No. 2. He further urged that the alleged incident occurred on 03.12.2017 and the First Information Report was made on 27.12.2017 i.e. after lapse of 24 days without giving any reasonable explanation of such delay in the written complaint. He further urged that medical report dated 03.12.2017 discloses that it was accidental burn injuries caused by explosion of Kerosene stove and Dying Declaration also speaks that while victim was cooking, she accidentally sustained burn injury. According to learned advocate for the petitioners, the present proceeding is liable to be quashed.

6. Learned counsel for the State submitted that investigation revealed materials implicating the petitioners with the alleged crime.

7. Learned advocate appearing for the Opposite party No. 2 submitted that there are materials available before the learned Court of Magistrate so as to justify further proceeding of this case.

8. I have heard the learned advocates of the respective parties. I have perused the materials on record including the copy of charge-sheet. On a perusal of the charge-sheet, it appears that on examination of material witness and collection of important papers, the charge-sheet was submitted and sufficient materials have been collected by the Investigating Agency to prosecute the petitioners before the Trial Court and a *prima facie* case is made out against the petitioners. Since a *prima facie* case is made out against the petitioners, which is sufficient for the purpose of proceeding further. I am of the view that it will not be proper for this Court to quash the proceedings at this stage. It shall be open to the petitioners to apply for discharge from the case under Section 227 of the Code of Criminal Procedure before the learned lower Court, if so advised.

9. In view of the discussion made above, I am of the opinion that this is not a fit case for quashing. The present application accordingly fails.

10. Let a copy of this judgment be sent down to the learned Court below for favour of information and necessary action.

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

(Manojit Mandal, J.)