

24.09.2020

Sl. No. 07
Mithun
Ct.No.23

**I.A.No:CRAN/1/2020
(Old No.: CRAN/2745/2020),
in
CRR/1053/2020
(Via Video Conference)
Gobindo Kumar Halder & Anr.
Vs.
State of West Bengal & Anr.**

Mrs Minoti Gome, Adv.,
Mr. Partha Sarathi Das, Adv,

... for the petitioners.

Mr. Saibal Bapuli, Adv.
Mr. Arijit Ganguly, Adv.
Mr. Sanjib Kumar Das, Adv.

...for the State.

Mr. Lord Chatterjee,

...for the Opposite Party

The instant revision under Section 482 of the Code of Criminal Procedure has been filed by the petitioners praying for quashing of Narendrapur Police Station Case No.763 of 2019 dated 8th June, 2019 under Sections 498A/406/313 of the Indian Penal Code on the ground that the opposite party No.2 made two F.I.Rs. with identical facts in verbatim at Narendrapur Police Station and AJC Bose B Garden Police Station. On the basis of the F.I.R. submitted at AJC Bose B Garden Police Station being No.61 of 2019 was registered on 25th May, 2019 under Sections 498A/406 of the Indian Penal Code and Sections 3 & 4 of the Dowry Prohibition Act. The petitioners have prayed for quashing the subsequent F.I.R.

being Narendrapur P.S. Case No.763 of 2019 on the ground that on self-same cause of action and for self-same facts and circumstances, two cases cannot proceed.

It is submitted by the learned Advocate for the petitioners that only difference between the said two cases is in Narendrapur Police Case No.763 of 2019 along with Section 498A/406 of the Indian Penal Code offence under Section 313 of the Indian Penal Code was also included. However, it is pointed out by the learned Advocate for the petitioners drawing my attention to Annexure P-8 at Page 51 of the application being the Discharge Summary of the opposite party No.2 that the opposite party No.2 became pregnant on or about November, 2018. However, due to multiple fibroids, spontaneous abortion was done on 3rd January, 2019 following the process of evacuation on 4th January, 2019. Thereby it is submitted by the learned Advocate for the petitioner that there is prima facie no case of illegal termination of pregnancy of the petitioner and she was aborted spontaneously due to existence of uterine fibroids in her person.

Thus, it is submitted by the petitioners that AJC Bose B Garden Police Station Case No.61 of 2019 being instituted earlier may be proceeded with and Narendrapur Police Station Case No.763 of 2019 may be quashed.

Learned Advocate for the opposite party No.2 , on the other hand, submits that in Narendrapur Police Station Case No.763 of 2019, police took prompt action to cause

investigation. Stridhan property were seized from the matrimonial home of the petitioner and charge sheet has been submitted in connection with the said case. At this stage it is submitted by the learned Advocate for the petitioner that two cases on self-same cause of action cannot run and accused cannot be prosecuted for the same offence twice. Under such circumstances, AJC Bose B Garden Case No.61 of 2019 may be dropped.

Learned Advocate for the State has also conceded to the suggestion made by the learned Advocate for the petitioners.

In view of such circumstances, the instant revision is disposed of quashing AJC Bose Police Station Case No.61 of 2019 dated 25th May, 2019 under Sections 498A/406 of the Indian Penal Code along with Sections 3 and 4 of the Dowry Prohibition Act.

The instant revision, is, thus, allowed on contest, however without costs.

The petitioners are at liberty to inform the Court below upon certified copy of this order.

In view of the above order, the petitioners are at liberty to move before the court below for confirmation of bail.

Accordingly, CRR 1053 of 2020 along with CRAN 2757 of 2020 are also disposed of.

(Bibek Chaudhuri, J.)

