

25.11.2020
09
suman
Ct.19

CRR 1374 of 2020

Mainak Ranjan Bakshi & Ors.

Vs.

State of West Bengal & Anr.

(Via Video Conference)

Mr. Rajdeep Mazumder
Mr. Mayukh Mukherjee
Mr. Pritam Roy

... for the petitioner

Mr.Saswata Gopal Mukherjee, Ld.P.P.
Mr. Ranabir Roy Chowdhury,
Mr.Mainak Gupta

...for the State

The grievance of the petitioner is that his marriage with the de facto complainant/opposite party No.2 was solemnized on 1st December, 2019. After marriage she went to her matrimonial home. Series of allegations were made against the petitioner including the allegation that he was found impotent and an FIR was lodged after nine month of marriage i.e. on 9th August, 2020. On the basis of said complaint police registered Khardah Police Station Case No.404 of 2020 dated 9th August, 2020.

Mr. Rajdeep Mazumder, learned Advocate appearing for the petitioner has assailed initiation of

criminal proceeding on the ground that police authority without following the ratio of **Lalita Kumari's case** reported in **(2014) 2 SCC 1** without making preliminary inquiry straightway initiated FIR against the petitioner and his family members. The FIR, therefore, cannot withstand and it is liable to be quashed.

The Hon'ble Supreme Court in the case of **Lalita Kumari** (supra) enumerated five categories of cases where the Investigating Authority may initiate preliminary inquiry before starting a specific case. The first category of cases is cases involving matrimonial dispute. In **Lalit Kumari** it was never stated that initiation of a specific case without preliminary inquiry in a matrimonial dispute should be treated as illegality and abuse of the process of law and accordingly should be quashed.

In all fitness of the matter I am of the view that in the instant case the Investigating Authority should hold a preliminary inquiry after giving notice to the petitioner and his family members. During the period of preliminary inquiry the process of investigation by Khardah Police Station Case No.404 of 2020 shall remain stayed. Initiation of investigation will depend upon the result of preliminary inquiry made by the Investigating Officer.

With the above order, the instant revision is disposed of on contest, however, without costs.

(Bibek Chaudhuri, J.)