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August
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C.R.R. No.301 of 2016
(Via Video Conference)

In Re: An application under Sections 397, 401 read with Section 482 of the Code of Criminal Procedure, 1973.

Sudepto Saha & Ors.
Versus
The State of West Bengal and Anr.

Mr. A. Banerjee.
...for the petitioners.

Mr. Saswata Gopal Mukherjee,
Ms. Debjani Sahu.
...for the State.

Report submitted by the learned advocate for the State be kept with the record.

Report reflects that the petitioner no.3, namely, Rita Saha has expired. To that effect, a death certificate has been enclosed along with the report.

Let the same be kept with the record.

Learned advocate for the petitioners submits that the allegations made in the FIR as also the charge-sheet fails to make out any offence so far as the husband and father-in-law is concerned, who are before this court presently. Learned advocate draws attention of this Court to the contents of the First Information Report and submits that no allegations of torture has been imputed against the husband but only against the father-in-

law and mother-in-law. By decree of divorce, marital tie has been terminated. Learned advocate for the petitioners has also tried to substantiate before this Court that most of the streedhan articles have been returned.

Another important point, which has been canvassed by the learned advocate for the petitioners, is that the statements which have been recorded in the case were prior to the registration of the case. So far as this point is concerned, the investigating officer on dock has got no answer as to how the statements were recorded prior to the case being registered. The FIR as also the charge-sheet reflects prima facie allegations of torture and demand for dowry. Evidence is required to be adduced in such cases in order to arrive at a conclusion and a court of law while exercising its jurisdiction under Section 482 of the Code of Criminal Procedure is not in a position to conduct an enquiry and assess or ascertain the truth or falsity of the contentions.

Having regard to the fact that the stage at which the petitioners have approached this Court, the same is at a premature stage. I am of the view that if an application under Section 239 of the Code of Criminal Procedure is taken out by the petitioners before the learned jurisdictional court, the learned jurisdictional court would consider the same independently without being influenced by any of the observation made before this Court.

Accordingly, CRR 301 of 2016 is disposed of.

Pending application, if any, is consequently disposed of.

Interim order, if any, is hereby vacated.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Tirthankar Ghosh, J.)