

Form No. J(2)

IN THE HIGH COURT AT CALCUTTA

CRIMINAL REVISIONAL JURISDICTION

Present:

The Hon'ble Justice Jay Sengupta

C.R.R. 741 of 2021

Subham Mahanta & Ors.

-vs-

The State of West Bengal & Anr.

For the Petitioners : Mr. U.S. Chattopadhyay
Mr. S. Maji
Mr. P. Basak

Heard on : 11.03.2021

Judgment on : 11.03.2021

Jay Sengupta, J.:

This is an application for quashing of a proceeding in which a charge sheet was submitted under Sections 376 and 417 read with Section 120B of the Indian Penal Code.

Learned counsel appearing on behalf of the petitioners submits as follows. The defacto complainant filed an

application under Section 156(3) of the Code making certain allegations against the petitioners that led to the registration of the first information report. After completion of investigation, a charge sheet was submitted on 14.02.2020. The petitioner no.1 and the opposite party no.2 are both the engineers. They are adults and entered into a relationship on mutual consent. The allegation that the opposite party no.2 was induced by a promise to marry given by the petitioner no.1 cannot be sustained in these circumstances. Moreover, the parents of the petitioner no.1 had hardly any role in this case. In view of the same, the impugned proceeding ought to be quashed in the interest of justice.

I have heard the submissions of the learned counsel for the petitioners and have perused the revision petition.

The opposite party no.2 in the first information report, inter alia, alleged as follows-

In November, 2019 talks took place between the family of the petitioner no.1 and the opposite party no.2 about their marriage. The individuals and the respective families became more acquainted with each other. In June, 2019 at the instance of petitioner nos.2 and 3, the petitioner no.1 went to Calcutta and asked the opposite party no.2 to come to their place with

all her belongings. On such request, the opposite party no.2 started staying at the place of the petitioners. In fact, the petitioner no.1 filled up the form for registration of marriage between the two. In this fashion, the petitioner no.1 gave a promise to marry and upon such promise, entered into the physical relationship with the opposite party no.2. 20.09.2019 was fixed as the date for registration of marriage. However, the petitioner nos.2 and 3 conspired with each other, quarreled with the opposite party no.2 and forcibly drove out her from their house. The petitioner no.1 refused to marry the opposite party no.2 and in fact, on one occasion tried to strangle her to death. After the completion of investigation, a charge sheet was submitted in this case.

It appears from the first information report that the promise to marry given by the petitioner no.1 preceded the purported physical relation.

In fact, the petitioner nos.2 and 3 were also involved in some ways, as per the first information report, inasmuch as the proposed marriage between the couple was being arranged by them and at their behest the alleged victim was brought to the house of the petitioners and after the incident, the petitioner nos.2 and 3 raised a quarrel and drove the victim out of their

house. The question of their complicity in relation to Section 120B of the Penal Code is a matter that can best be decided during trial.

The contention of the petitioners that the victim was an adult woman and an educated one and therefore, could not have been duped in such fashion by the petitioners is essentially a disputed question of fact that cannot be decided in an application for quashing of proceeding.

In view of the above, I do not find any merit in this application.

Accordingly, the revisional application is dismissed.

However, there shall be no order as to costs.

Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Jay Sengupta, J.)

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