

17.06.2021

Item No.23
Ct.No.34
dc.

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION**

C.R.R. 2488 of 2008
(Via Video Conference)

**Mousumi Roy nee Chakraborty
versus
State of West Bengal & Ors.**

In Re: An Application filed under Section 401 read with Section 482 of the Code of Criminal Procedure, 1973.

Mr. Kaushik Gupta ... For the Petitioner.

Mr. Swapan Banerjee,
Ms. Sujata Das ... For the State.

The present revisional application has been preferred against the judgment and order dated 17.08.2007 passed by the learned Additional Chief Judicial Magistrate, Bidhannagar, North 24-Parganas in connection with G.R. Case No. 2868 of 1998 arising out of Lake Town P.S. Case No. 138 dated 07.09.1998 under Sections 498A/120B of the Indian Penal Code. By the said judgment and order, the learned Magistrate was pleased to hold the accused persons not being guilty of the charges punishable under Section 498A of the Indian Penal Code and as such, acquitted them.

Mr. Kaushik Gupta, learned advocate appearing for the petitioner submits that the petitioner was aggrieved as she was subjected to torture at her matrimonial home and in spite of evidence being available, the learned Magistrate erroneously acquitted three accused persons from the charges levelled against them.

I have perused the judgment passed by the learned Magistrate which narrated the prosecution case to the effect that on or about 25.11.1997, the present petitioner being Mousumi Roy nee Chakraborty was married with Kamal Barui and the said marriage was solemnised as per hindu rites and customs. The petitioner alleged that her father at the time of marriage sent gifts as per demand of the in-laws. However, after marriage, she was subjected to both physical and mental torture and there was further demand of Rs.50,000/- by her husband. The petitioner further alleged that her two sister-in-laws viz., Rina Halder and Mira Barui instigated her husband i.e. accused no.1 who thereafter tortured her. It was contended that Kamal Barui was earlier married and the first wife was driven out from the matrimonial home by inflicting physical and mental torture when she was pregnant. After receipt of the complaint, Lake Town P.S. Case No. 138 dated 07.09.1998 was registered for investigation and on completion of investigation, charge-sheet was filed under Sections 498A/114 of the Indian Penal Code against the opposite party nos. 2 to 4.

Mr. Swapan Banerjee, learned advocate appearing for the State supports the case of the petitioner and submits that there are allegations and by way of cogent evidence, the same has been proved before the court of law and the learned Magistrate disbelieved the prosecution case and ignored the

vital evidence thereby arriving at a finding of acquittal which is not tenable in the eye of law.

I have perused the evidence as is appearing in the court records and I find that the learned Magistrate has recorded the evidence of the witnesses and came to his own finding, although the present offences as alleged were committed almost within a year of marriage, but then according to the settled principles of law until and unless grave miscarriage is shown to have been caused, a higher forum cannot interfere with an order of acquittal. This is in addition to the settled principles of law that if two views are possible, one in favour of acquitting the accused and the other for the purposes of convicting the accused, the higher forum will not ordinarily alter an order of acquittal until and unless it is pointed out that there was such a manifest error or illegality committed by the learned trial court which would result in an abuse of the process of law and thereby cause grave miscarriage of justice.

Having regard to the settled principles of law and the reason assigned by the learned Magistrate, I am of the considered view that no interference is called for at this stage. The revisional application as such fails.

Accordingly, CRR 2488 of 2008 is dismissed.

Rule is discharged.

Interim order, if any, is hereby vacated.

All connected applications are disposed of.

Lower court records be sent down to the concerned court below.

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

(Tirthankar Ghosh, J.)