

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

PRESENT:

THE HON'BLE JUSTICE TIRTHANKAR GHOSH

C.R.R. 2441 of 2012
(Via Video Conference)

Sukla Mukherjee & Ors.
-vs.-
The State of West Bengal

For the Petitioners : Mr. Jayanta Narayan Chatterjee
Mr. Nazir Ahmed,
Mr. Supreem Naskar,
Ms. Ritushree Banerjee

For the State : Mr. Rana Mukherjee,
Ms. Sujata Das,
Ms. Debjani Sahu

Heard on : 21.09.2021 and 27.09.2021

Judgment on : 01.10.2021

Tirthankar Ghosh, J:-

The present revisional application has been preferred challenging the charge-sheet filed in connection with Kanksa Police Station Case No. 167 of 2011 dated July 24, 2011 under Sections 498A/307/34 of the Indian Penal Code.

The instant case was initiated on the basis of complaint addressed to the Officer-in-Charge, Kanksa Police Station by Bandana Mukherjee. The sum and substance of the allegations in the letter of complaint are as follows:-

The complainant was married to Gobinda Mukherjee about 1 ½ years back and the said marriage was a social marriage. The complainant alleges that immediately after her marriage she was mentally and physically tortured by her mother-in-law, Sukla Mukherjee; father-in-law, Murari Mohan Mukherjee and brother-in-law, Manotosh Mukherjee. To that effect earlier also she informed the police station and somehow or the other such dispute was resolved. However, on 23rd July, 2011 at about 9.00 p.m. the aforesaid 3 accused persons assaulted her and her husband Gobinda Mukherjee and the younger brother-in-law i.e. Manotosh Mukherjee poured kerosene over her body when she somehow fled away to save herself. Lastly, she alleged that over this incident, her sister-in-law Anjana Bhattacharjee and her husband Pradip Bhattacharjee were also involved.

Learned Advocate for the petitioners submits that the peculiarity of the present case is that the same has been initiated in order to grab the property. The complainant has left out her husband and implicated rest of the family members of matrimonial home in order to attain her ulterior purpose. In view of the contentions advanced by the petitioners, Mr. Rana Mukherjee learned Advocate appearing for the State, was directed to produce the Case Diary. Accordingly, the Case Diary was produced before this Court.

It reflects from the Case Diary that the Investigating Agency on conclusion of investigation in connection with Kanksa Police Station Case No. 167 of 2011 dated 24.07.2011 was pleased to submit charge-sheet against the 5 petitioners who have approached this Court.

I have perused the Case Diary and the materials collected by the Investigating Agency to arrive at their conclusion and assessed whether a case under Sections 498A/307/34 of the Indian Penal Code has been made out against the accused/petitioners, and I have found that the prosecution in order to prove its case has relied upon 9 witnesses, which includes the complainant, Bandana Mukherjee; Gobinda Mukherjee, husband of the complainant; Sanyashi Mazumdar, acquaintance of the complainant; Bidhan Boral, neighbour of the complainant; Dipak Bose, neighbour of the complainant; Dr. Rathin Mukherjee and 3 Police Authorities, namely, Sub-Inspector Partha Ghosh, Ram Ranjan Patra and Sukumar Sen of Kanksa Police Station.

I have perused the statement of the complainant as also the other witnesses including the injury report and the statement made therein by the complainant to Dr. Rathin Mukherjee. In the letter of complaint although there are specific role in respect of the physical and mental torture being inflicted upon the complainant by petitioner Nos. 1, 2 and 3 but no definite role of petitioner Nos. 4 and 5 are appearing. The injury report, which has also been relied upon by the prosecution, do not refer to any complicity of the petitioner Nos. 4 and 5. In fact in the injury report which is a statement

made by the complainant Bandana Mukherjee to the doctor it has been stated as follows:-

“She was been assaulted by her father-in-law and mother-in-law and brother-in-law. She was kicked on abd (5 months carrying) and was poured kerosene with attempt to homicidal burn.”

The only allegation made against the petitioner Nos. 4 and 5 are that they were also involved in the offence.

In view of the materials appearing in the records of the case which include the complaint, the injury report and the statement of witnesses it can be said that there may be some suspicion against the petitioner No. 4 and 5 but no grave suspicion arise from the aforesaid materials on record. Having regard to the settled principle of law under such circumstances, I am of the opinion that the petitioner No. 4 and 5 should not be allowed to face the ordeal of trial.

Consequently, the further continuance of the prosecution arising out of the Kanksa Police Station Case No. 167 of 2011 dated 24.07.2011 and the orders passed therein, so far as the petitioner No. 4 (Pradip Bhattacharjee) and 5 (Anjana Bhattacharjee) are concerned, are hereby quashed.

However, the Learned Trial Court would invoke the provisions of Section 319 of the Code of Criminal Procedure in case materials surface against them in course of evidence.

As there are materials appearing against the petitioner No.1 (Bandana Mukherjee), petitioner No. 2 (Murari Mohan Mukherjee) and petitioner No. 3

(Manotosh Mukherjee), the trial should proceed against them. As such the Learned Magistrate would take steps for progress of the trial of the case and take the same to its logical conclusion within a reasonable period of time.

Thus, CRR 2441 of 2012 is partly allowed.

Pending application, if any, is consequently disposed of.

Interim order, if any, is hereby vacated.

Case diary be returned to the Learned Advocate appearing for the State.

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

Urgent photostat certified copy of this judgment, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Tirthankar Ghosh, J.)