

20.07.2021

Item No.3
Ct.No.34
dc.

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

C.R.R. 3110 of 2016

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CRAN 6 of 2020 (Old No. CRAN 945 of 2020)
(Via Video Conference)

Jayashree Bose & Anr.

versus

Sri Debasish Dhar & Anr.

In Re: An Application under Section 401 read with Section 482 of the Code of Criminal Procedure filed for quashing the proceedings of Parnasree P.S. Case No. 140 dated 12.06.2012 under Sections 448/380/114 of the Indian Penal Code being T.R. Case No. 2014.

Mr. Indrajeet Dey ... For the Petitioners.

Mr. Sandipan Ganguly, Sr. Adv.,
Ms. Kabita Mukherjee,
Mr. Manas Dasgupta ... For the Opposite Party No.1.

Mr. Arijit Ganguly,
Mr. Sandip Chakraborty ... For the State.

Mr. Indrajeet Dey, learned advocate appearing for the petitioners has submitted his notes of arguments. The learned advocate has emphasized on the factum of malafide as also referred to the previous litigations which include a case under Section 302 of the Indian Penal Code and the findings of the Consumer Dispute Redressal Forum as well as Kolkata Municipal Corporation.

Mr. Sandipan Ganguly, learned senior advocate appearing for the opposite party no.1 supports the judgment and order delivered by the learned trial court while disposing of the application under Section 239 of the Code of Criminal Procedure and submits that so far as the offence under

Section 448 of the Indian Penal Code is concerned, the same is substantiated by oral evidence as well as the complaint which was lodged with the police station.

Mr. Arijit Ganguly, learned advocate appearing for the State has produced the case diary.

I have perused the case diary as well as the documents placed by the petitioners and the opposite party no.1/de facto complainant. Needless to state that this Court is adjudicating at the stage of consideration of charge when the settled principles of law is that in case there is a grave suspicion, the court should be slow in interference and direct the trial to proceed. The accused at this stage may be having documents in their custody which could substantiate their claim after being considered at the end of the trial. As the appreciation at this stage is only restricted to the concept of *prima facie* case being made out and not a case for consideration for conviction or acquittal, I am of the view that the learned Magistrate was not wrong in arriving at his own conclusion. As such, no interference is called for.

The learned trial court is directed to frame the charge and proceed with the trial of the case in the manner by fixing schedule so that the same can be completed within a reasonable period of time.

I find both the accused persons are ladies who may have difficulty in attending the court regularly. As such, if an undertaking under Sections 205/317 of the Code of Criminal Procedure is taken out by their representative lawyers, then

in that case, the learned court would consider dispensing with their personal appearance either on the particular day or on a number of dates as the learned trial court would think fit and proper.

With the aforesaid observations, CRR 3110 of 2016 is disposed of.

Interim order, if any, is hereby vacated.

All pending applications, if any, are consequently disposed of.

Department is directed to communicate this order to the learned 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.)