

**In the High Court at Calcutta
Criminal Revisional Jurisdiction
Appellate Side**

Present:

The Hon'ble Justice Subhasis Dasgupta.

CRR No. 1728 of 2020

**Sunil Biswas
Vs.
State of West Bengal and Ors.**

For the Petitioner	:Mr. Samrat Chowdhury, Adv. Mr. Sandip Das, Adv.
For Opposite Party No. 2	:Mr. Sourav Chatterjee, Adv. Mr. Soumya Nag, Adv.
For the State	:Mr. Rana Mukherjee, Learned APP Mr. Arijit Ganguly, Adv. Ms. Manisha Sharma, Adv.
Heard on	: 20.01.2021
Judgment on	: 27.01.2021

Subhasis Dasgupta, J:-

The court is approached under Section 482 of the Cr.P.C. to quash the impugned First Information Report, lodged at Kalighat Police Station being Case No.94 of 2020 giving rise to proceedings, registered as CGR Case No.2304 of 2020.

Learned Advocate Mr. Samrat Chowdhury representing the petitioner challenged the First Information Report, now pending investigation, alleging the pending criminal prosecution to be a counter productive of a matrimonial suit already lodged against the de facto complainant and thus purposive one and harassive also. Further contention was raised by Mr. Chowdhury submitting that the petitioner proposing quashment was not the principal accused, and no offence could be said to have been committed furnishing the ingredients of the offence, complained of against the instant petitioner. More so, the de facto complainant got himself previously married on the date of marriage, shown in the complaint. Taking such grounds, petitioner proposed for quashment of the F.I.R. pending investigation.

Learned Advocate Mr. Rana Mukherjee representing the State submitted that the petitioner was one of the perpetrators to a deep rooted conspiracy, and in consequence thereof petitioner with other co-accused persons duped de facto complainant thereby inducing the de facto complainant to get one lady married, upon making false presentation of that lady to be a divorcee one, after forging a Court document, granting mutual divorce to a woman, other than the lady, with whom the de facto complainant was made to marry. After making reliance upon the presentation held in course of negotiation for marriage by the petitioner with other co-accused persons, subsequent to an advertisement published in a daily Bengali newspaper, de facto complainant fell a victim of cheating.

Mr. Sourav Chatterjee representing private opposite party reacted to the submission raised by the learned Advocate for the petitioner by submitting

that the Hon'ble Division Bench of this Court had already rejected the prayer for anticipatory bail of the petitioner holding that custodial interrogation was necessary to unravel the nature and extent of the fraud in consequence of a deep rooted conspiracy. Mr. Chatterjee candidly submitted with his usual frankness that if the proposed quashment was taken care of in terms of the points raised by the petitioner, the very purpose of the investigation will be frustrated causing investigation to suffer huge prejudice. Upon taking such grounds, the proposed quashment was sought for dismissal.

The crux of the contention levelled against the petitioner is that he assisted the principal accused in hatching up the alleged conspiracy leading to procurement of a forged Court document granting divorce in the name of parties, other than the principal accused. In the process of hatching up conspiracy, the petitioner is alleged to have made significant contribution, when the negotiation for marriage of the de facto complainant/opposite party No.2 was held, and in course of negotiation for marriage, the petitioner presented himself to be the brother of the prime accused, as divorced sister.

The attention of Court is drawn to some documents in case diary, which are alleged to have been forged in procuring a fictitious divorce decree standing in the name of principal accused, being an out come of deep rooted conspiracy, hatched up taking support of the petitioner and other co-accused persons. In the advertisement published in a Bengali daily circulation, the prime accused was allegedly mentioned as a divorcee wife, and upon being attracted by such advertisement, when negotiation for marriage was followed, the petitioner projected his stand claiming himself to be the brother of a sister

divorcee (prime accused). The purported divorce decree presented in course of negotiation for marriage standing in the name of Partha Chatterjee and Sikha Biswas (prime accused), dated 27th January, 2014 relatable to Mat Suit No.113 of 2013 of Learned Additional District and Sessions Judge, 2nd Court, Barasat, North 24 Parganas, was turned out to be a fictitious document in course of the enquiry, which originally connected Mat Suit No.113 of 2013, disposed of by Learned Additional District and Sessions Judge, 2nd Court, Barasat granting a divorce decree on mutual consent under the Special Marriage Act in the name of Kumaresh Mondal and Sucharita Mondal (Modak) on 3rd February, 2014. Since extensive investigation is going on, and upon visualization of which, the Division Bench of this Court in CRM No.10239 of 2020 rejected the prayer for anticipatory bail of the petitioner on December 11, 2020 observing therein that custodial interrogation was necessary to unravel the nature and extent of fraud committed in this case in consequence of a deep rooted conspiracy, the pending investigation undertaken on the basis of impugned F.I.R. does not call for any interference.

In the given circumstances, the pending investigation has its own significance and individual potentiality, irrespective of alleged institution of a case describing it to be a counter productive of a Matrimonial Suit pending against the de facto complainant. Investigation of a case is interferable in a case subject to making out a strong case revealing palpable illegality in the institution of a criminal case. Since the case under challenge is not of such a nature and dimension, in which vigorous and extensive investigation is called for, the Court is not agreeable to the contention, as presented by the Learned

Advocate for the petitioner in the instant case. Having considered the rival submissions of the parties, the court is of the view that it is not an appropriate case in which the extraordinary power under Section 482 of the Code is necessary to be exercised. Accordingly the prayer for proposed quashment is refused. The revisional application accordingly stands dismissed. CD be made over forthwith.

Office is directed to communicate this order to the concerned Court below without making any delay.

Urgent photostat certified copy of this judgment, if applied for, be given to the appearing parties as expeditiously as possible upon compliance with all necessary formalities.

(Subhasis Dasgupta, J.)