

CRR 35 of 2020

In the matter of : Manju Ram

.....Petitioner

Mr. Sabyasachi Mukherjee
Ms. Debarati Chowdhuryfor the petitioner

Mr. S.G.Mukherjee, Ld. PP
Mr. Imran Ali
Ms. Debjani Sahu ...for the State

In spite of service, the opposite party no. 2 remains unrepresented at the time of hearing.

The present revisional application has been preferred for quashing of the impugned proceedings being Naihati Police Station Case no. 935 of 2017 dated 26.12.2017 under Section 323/307/406/498A/506/34 of the Indian Penal Code pending before the court of learned Additional Chief Judicial Magistrate, Barackpore, North 24 Parganas.

The petitioner's contention is that the opposite party no. 2/defacto complainant filed an application under Section 156(3) of the Code of Criminal Procedure before the court of learned Additional Chief Judicial Magistrate, Barackpore, North 24 Parganas with some false and fabricated allegations. On the basis of said application, the Magistrate asked the Naihati Police Station to start investigation treating the petitioner's complaint as first information report. Accordingly, Naihati Police Station case no. 935 of 2017 was initiated but the investigation has not been done in a fair way and ultimately the Investigating Officer submitted a

final report in the form of charge-sheet against present petitioner along with others under Section 323/406/498A/506/34 of the Indian Penal Code without following the provisions of law and also without applying mind whether the ingredients of the sections alleged are present or not in respect of the allegations leveled against the present petitioner.

The allegation levelled against petitioner in the complaint, is that on 15.11.2017, the present petitioner went to the house of the parents of the opposite party no. 2 and assaulted her and also her family members. Further allegation is that the petitioner threatened them with dire consequences. Investigation ended in charge-sheet, and learned trial court took cognizance of the offence on 14.11.2019.

Mr. Mukherjee, learned advocate for the petitioner submits that the present petitioner is not a family member of the defacto-complainant nor she is relative of the husband of the defacto-complainant and as such the allegation under Section 498A cannot attract against the present petitioner. The allegation leveled in the FIR is that present petitioner has illicit relationship with the husband of opposite party No.2. All such allegations in the written complain are false and fabricated in nature. Accordingly, the petitioner has prayed for quashing the proceeding against her.

Ms. Sahu, learned advocate appearing for the State submits that investigation has already been completed and charge-sheet submitted and the court has also taken cognizance on the offence alleged. Accordingly, whether the petitioner has committed any offence or not, will be decided after conclusion of trial but at this

stage, it would not be proper to quash the proceeding in respect of petitioner invoking power under Section 482 of the Code of Criminal Procedure specially when the case is ready for framing of charge.

I have gone through the written complain wherefrom it appears that the defacto-complainant in third paragraph of her written complain has specifically alleged that on 15.11.2017 at about 8 A.M, accused no. 7 (present petitioner) along with other three unknown antisocial came to the parental residence of the defacto-complainant and started beating her and also assaulted with brick bats and they also assaulted the defacto-complainant's mother and Dida (mother's mother) as a result of which the defacto-complainant/opposite party and her mother and Dida sustained bodily pain injury. The complainant has informed the incident to local police station at Naihati and then she also informed the matter to Kalyani Police Station but subsequently, no fruitful action has been taken by police against the accused persons.

I have also gone through the materials in the case diary and it appears that during investigation, police had examined three witnesses and all the three witnesses have stated that on 15.11.2017, the petitioner along with her men came to the house of the opposite party no. 2 and assaulted her physically and also threatened her with dire consequences.

Considering the aforesaid materials including contents of first information report as well as statements recorded under Section 161 of the Code of Criminal Procedure, it cannot be logically concluded that the allegations levelled against the

present petitioner does not prima facie disclose any offence against the petitioner so that the proceeding can be quashed under Section 482 of the Code of Criminal Procedure.

Accordingly, the prayer for quashing of proceeding against present petitioner being Naihati Police Station Case no. 935 of 2017 dated 26.12.2017 under Section 323/307/406/498A/506/34 of the Indian Penal Code pending before the court of learned Additional Chief Judicial Magistrate, Barackpore, North 24 Parganas is dismissed.

However, the trial court is directed to expedite the trial. Liberty is given to the petitioner to agitate all her points infavour of her discharge prayer before the trial court at the time of framing of charge or at the time of alteration of charge, including her contention, that she is not relative of husband of defacto complainant and in the event such prayer is made at the appropriate stage of hearing, learned court will dispose of such prayer in accordance with law.

CRR 35 of 2020 is accordingly disposed of.

Urgent photostat certified copy of this order, if duly applied for, be given to the parties upon compliance of all requisite formalities.

(Ajoy Kumar Mukherjee, J.)