

Form No. J(2)

IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION

Present:

The Hon'ble Justice Jay Sengupta

C.R.R. 220 of 2022

Sk. Tanveer Ahmed & Ors.

-vs-

The State of West Bengal & Anr.

For the Petitioner : Ms. Devipriya Mitra

Heard on : 31.01.2022

Judgment on : 31.01.2022

Jay Sengupta, J.:

This is an application challenging an investigational proceeding under Sections 406, 498A, 326 read with Section 114 of the Penal Code and Section 4 of the Dowry Prohibition Act.

Learned counsel for the petitioners submits as follows. The petitioners are the husband and the in-laws of the de facto complainant/opposite party. Over the self-same allegations in 2010,

the de facto complainant had filed an FIR over the same. A charge sheet has submitted and the proceeding is going on. The de facto complainant/husband and the in-laws stayed at the same house. Yet, in 2020, another FIR was lodged by the lady making similar allegations. As such, the second proceeding should be quashed for having proceeded on a second FIR.

I have heard the learned counsel for the petitioners and have perused the revision and the copies of the FIRs lodged in the two cases.

A vital distinction between the first and the second proceedings is that the de facto complainant clearly alleged in the FIR of 2020 that the accused caused a grievous hurt to her. The husband allegedly sat on her chest and hit her resulting in fracture of her 2nd and 3rd ribs. The de facto complainant categorically stated that she had to undergo medical treatment at C.N & M.C Hospital.

Therefore, it cannot be argued here that a second FIR was lodged on the self-same cause of action. On the contrary, the allegations made in the two FIRs are quite distinct and different, especially, vis-à-vis' the allegation under Section 326 of the Penal Code. In fact, this seems to be the prime issue in the case of 2020.

I find that a prima facie case as alleged is made out against the

accused in the present proceeding, as would be evident from a plain reading of the instant FIR.

Moreover, the case is purportedly pending at the stage of investigation. At this stage one has to be scrupulously circumspect in interfering with a criminal proceeding.

Taking the above aspects into consideration, I do not find any merit in this application.

Therefore, the application for quashing of the proceeding is dismissed.

However, there shall be no order as to costs.

Urgent photostat certified copy of this order may be supplied to the parties expeditiously, if applied for.

(Jay Sengupta, J.)