

10.08.2022
Item No. 10
Ct. No.40
d.g.

CRR 150 of 2011

**Ashis Kumar Adhikary & Ors.
vs.
The State of West Bengal & Anr.**

**Mr. Abhra Mukherjee,
Mr. Somen Bose,
Mr. Sauradeep Dutta.**

... for the petitioners

**Mr. Imran Ali,
Ms. Debjani Sahu.**

... for the State

The instant application is filed under Section 401 read with Section 482 of the Code of Criminal Procedure praying for quashing of the proceeding being G.R. Case No. 1183 of 2008 connected to Purulia (M) P.S. Case No. 167 of 2008 dated 27.11.2008 under Sections 498A/323/427/506/406 of the Indian Penal Code pending in the Court of Judicial Magistrate, 1st Court, Purulia.

The Opposite Party no. 2 is the wife of the present petitioner who implicated the present petitioner in the aforesaid criminal prosecution. On conclusion of investigation, charge-sheet was filed under Sections 498A/323/427/506/406 of the Indian Penal Code read with Section 3/4 of the Dowry Prohibition Act.

Mr. Mukherjee, learned Counsel appearing for the petitioners submitted that all the incidents took place at the matrimonial home of the opposite party no. 2, which is

situated at Ranchi. He also invited attention to the statement contained in the application filed under Section 156(3) of the Code of Criminal Procedure, wherein it is admitted that written complaint was made earlier on the self same allegations in Gonda Police Station which was registered as Gonda P.S. Case No.86/06.

In view of that, a second prosecution on the self-same allegation and ground is redundant and is an abuse of the process of the Court.

According to him, the same should be quashed.

Ms. Sahu, learned Counsel for the State submitted that case diary produces, prima facie criminal elements against the petitioner. However, she admitted that in the letter of addressed to the Officer-in-Charge of the Purulia (M) Police Station as well as to the Superintendent of Police Purulia dated 27.05.2008 and 12.06.2008 respectively, there is no mention of the pending prosecution.

I have heard the rival submissions.

Case diary shows, as observed, there is suppression of fact by the Opposite Party no. 2 that she initiated criminal prosecution against the present petitioner which was registered as Gonda Police Station Case No. 86 of 2006 on 19.06.2006 at Ranchi. It is admitted in the application filed under Section 156(3) of the Code of Criminal Procedure that after lodging a complaint on 19.06.2006, the OP no. 2 again stayed in her matrimonial home on and from 21.06.2006 to 16.06.2007., during which the petitioner

never talked to her, did not reside with the OP no. 2 as a couple and treated her as maidservant.

In the facts and circumstances, so far as allegations related to the period ending on 19.06.2006 is concerned, there is already a pending criminal prosecution at Ranchi in the State of Jharkhand. So far as the second part of allegation namely the period during which the OP no. 2 stayed in the matrimonial home from 21.06.2006 up to 16.06.2007, the said allegations failed to disclose commission of any offence except marital discords. Therefore, so far as the present prosecution is concerned, it will lead to the present petitioner to a double jeopardy causing aberration of justice. Therefore, the aforesaid pending criminal prosecution is liable to be quashed.

Accordingly, G.R. Case No. 1183 of 2008 related to Purulia P.S. Case No. 167 of 2008 dated 27.11.2008 stands quashed.

A copy of this order may be sent to the Trial Court.

Case diary be returned.

Accordingly, the instant criminal application stands disposed of.

(Sugato Majumdar, J.)