

14-12-2022
Subha
Item no.21
Ct no.34

IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction

CRR 171 of 2021

Prosenjit Jana & Ors.
-versus-
The State of West Bengal & Anr.

Mr. Dipanjan Chatterjee
Mr. Subrata Santra
Ms. Richa Barman

.....for the petitioners.

Mr. Koustava Bagchi
Mr. Debayan Ghosh
Ms. Priti Kar

....for the O. P. No.2.

Mr. S. G. Mukherji, Id. PP,
Mr. Imran Ali
Ms. Debjani Sahu

.....for the State.

The present revisional application has been preferred challenging the proceedings arising out of Rahara P. S. Case No. 13 of 2021 dated 06.01.2021 under Sections 498A/323/406/363/365/354/506/34 of the Indian Penal Code.

Mr. Chatterjee, learned advocate appearing for the petitioners submits that the complainant namely, Smita Jana Dutta initially filed a letter of complaint with Rahara Police Station which was registered as Rahara P. S. Case No. 185 dated 15.11.2020. Subsequently, she filed an application under Section 156(3) of the Code of Criminal Procedure before the learned Additional Chief Judicial Magistrate, Barrackpore.

The summary of the allegations in both the cases related to

torture being inflicted by the inmates of the matrimonial home along with her husband and a friend of the husband namely, Chandan Ghosh.

The dates referred to in the first complaint regarding torture/ mis-behaviour are 28.10.2020, 06.11.2020, 09.11.2020.

So far as the second case is concerned being Rahara P. S. Case No. 13 of 2021, admittedly in the application under Section 156(3) of the Code of Criminal Procedure, the complainant/opposite party no. 2 has referred in paragraph 9 that the cause of action arose on 28.10.2020, 03.11.2020, 09.11.2020 and lastly on 15.12.2020.

So far as the date namely 15th December, 2020 is concerned, the complainant alleged that on that date she had been to her matrimonial home for return of her minor sons when the accused persons threatened her of dire consequences and drove her out of the matrimonial home. This additional circumstance is the only reason which has been emphasized by Mr. Bagchi, learned advocate appearing on behalf of the opposite party no. 2 to oppose the contentions relating to the “test of sameness” as pleaded by the learned advocate appearing for the petitioners.

I have considered the allegations, particularly the contents, the dates referred to therein, and the issues relating to torture and the mis-behaviour complained of.

On an assessment of the same, I am of the opinion that the manner in which a hand written paragraph has been inserted in the application under Sections 156(3) of the Code of Criminal Procedure with a ploy to initiate a second proceeding was to harass the present

petitioners.

Having regard to the contents of the allegations in both the cases being Rahara P. S. Case No. 185 of 2020 dated 15.11.2020 and Rahara P. S. Case No. 13 of 2021 dated 06.01.2021, I am of the opinion that the second FIR being Rahara P. S. Case No. 13 of 2021 dated 06.01.2021 do fall within the settled principle of law as has been pronounced by the Hon'ble Supreme Court in **Babu Bhai -vs- State of Gujarat reported in (2010) 12 SCC 254.**

Having regard to the same, further continuance of the Rahara Police Station Case No. 13 of 2021 dated 06.01.2021 is an abuse of the process of the court and is liable to be quashed.

Accordingly, all further proceedings of Rahara P. S. 13 of 2021 dated 06.01.2021 is hereby quashed. However, the police authorities are directed that in case any material which has been collected in course of the said investigation is so required for the purposes of Rahara P. S. Case No. 185 of 2020 dated 15.11.2020, the said documents, materials can be transmitted for invoking the same as part and parcel of the said case

Accordingly, the present revisional application is allowed.

As such, the present revisional application being CRR 171 of 2021 is disposed of.

Pending applications, if any, are consequently disposed of.

All concerned parties are to act in terms of a copy of this order duly downloaded from the official website of this court.

[Tirthankar Ghosh, J]

