

15.11.2022
Item No.43
BR

CRR 434 of 2009
with
CRAN 1 of 2009 (Old No. 3154 of 2009)
Rathin Roy and Ors.
Vs.
The State of West Bengal & anr.

Mr. Sourav Chatterjee,
Mr. Aditya Tiwari,
Ms. Namrata Chatterjee
... for the Petitioner

Mr. Narayan Prasad Agarwal,
Mr. Pratick Bose for the State

Affidavit of service submitted by Mr. Sourav Chatterjee , learned counsel is taken on record.

Assailing the order passed by learned trial Court by which cognizance was taken in a proceeding being GR Case No. 937 of 2008 arising out of Mogra P.S. Case No. 110 of 2008 dated 29th September, 2008 under Section 498A/406 of the Indian Penal Code. Mr. Sourav Chatterjee, learned counsel appearing for the petitioners argues strenuously that the impugned order passed on 21.01.2009 is out and out illegal and this Court is left with no other option but to quash the proceeding in view of judgment passed by coordinate Bench of this Hon'ble Court in the case of Shipra Raj Roy -vs- The State of West Bengal and anr. , reported in (2007) 1 C Cr LR(Cal)800, Ram Swarup Agarwal & Ors. -vs- State of West Bengal & anr. , reported in (2011) 2 C Cr LR (Cal) 631 and a judgment of Hon'ble Supreme Court pronounced in the case of Y.Abraham Ajith & Ors. -vs- Inspector of Police , Chennai and anr., reported in 2004 SCC (Cri) 2134.

As I have already pointed out the case was registered way back in 2008 after lapse of 14 years we are not in a position to say the development that has already taken place before the learned trial Court.

Ordinarily, place of enquiry and trial as laid down under Section 177 of the Cr P C shall be made by Court within whose local jurisdiction it was committed but this is a general rule with several exceptions as laid down under Sections 178,179,180,181 of the Criminal Procedure Code.

Considering the period of time already elapsed I do not think it fit to invoke the inherent jurisdiction to quash the proceeding as prayed for, rather in my opinion ends of justice would be met if the petitioners are given liberty to agitate all these points before the learned trial Court, if the proceeding is found to be pending. Learned trial Court will address the issues according to law..

Thus the revisional application is disposed of , without any order as to costs.

Let a copy of the judgment be sent down to the learned Court below for information and necessary action.

Urgent certified copy be made available , if applied, therefor, upon compliance of requisite formalities.

All parties are to act on the server copy of this order duly downloaded.

(Siddhartha Roy Chowdhury, J.)