

09.11.2022

Item No.2
Ct.No.34
dc.

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION**

C.R.R. 545 of 2021

**Indrani Basu
versus
The State of West Bengal & Anr.**

In Re: An Application under Section 482 of the Code of Criminal Procedure.

Mr. Kallol Kumar Basu,
Md. Jannat Ul Firdous,
Ms. Tithi Mazumder ... For the Petitioner.

Mr. Madhusudan Sur,
Md. Kutubuddin ... For the State.

The present revisional application has been preferred with a prayer for quashing of the proceedings in respect of Basirhat Police Station Case No. 56 of 2020 dated 14.01.2020 under Sections 498A/325/307/328/120B/506/34 of the Indian Penal Code. The present petitioner happens to be the mother-in-law of the *de facto* complainant/opposite party no.2.

Mr. Basu, learned advocate appearing for the petitioner submits that prior to institution of Basirhat Police Station Case No. 56 of 2020 dated 14.01.2020, another case was registered by the complainant being Basirhat Police Station Case No. 519 of 2019 dated 05.06.2019. Both the cases arose out of matrimonial discord and in both the cases, surprisingly husband has been left out and has been made a witness against all the relations of the matrimonial home.

Mr. Sur, learned advocate appearing for the State has produced case diaries of both Basirhat Police Station Case

No. 56 of 2020 dated 14.01.2020 and Basirhat Police Station Case No. 519 of 2019 dated 05.06.2019.

I find that in Basirhat Police Station Case No. 519 of 2019 dated 05.06.2019, charge-sheet and supplementary charge-sheet both were submitted under Sections 498A/341/323/506 of the Indian Penal Code and in Basirhat Police Station Case No. 56 of 2020 dated 14.01.2020, charge-sheet was submitted under Sections 498A/323/328/120B/506/34 of the Indian Penal Code. The peculiar feature of the later case, i.e. Basirhat Police Station Case No. 56 of 2020 dated 14.01.2020 is that it refers to incidents which happened on 02.05.2019. The complainant is same. The incidents complained of arose out of matrimonial dispute and as the earlier case has been completely investigated and charge-sheet has been submitted and the case was registered on 05.06.2019, it should have covered the incidents complained of in the subsequent FIR.

Peculiarity of the present case is that the husband is a witness and not an accused under Section 498A of the Indian Penal Code to the incident complained of in the subsequent case i.e., Basirhat Police Station Case No. 56 of 2020 dated 14.01.2020 which refers to period of offences prior to 05.06.2019 when Basirhat Police Station Case No. 519 of 2019 dated 05.06.2019 was already registered and the investigation process was in progress.

Considering the fact of the present case and the manner in which the matrimonial relations are being

implicated by segregating the husband by the complainant and the nature of incidents complained of, I hold that Basirhat Police Station Case No. 56 of 2020 dated 14.01.2020 as second FIR.

In view of the aforesaid, all proceedings relating to Basirhat Police Station Case No. 56 of 2020 dated 14.01.2020 under Sections 498A/325/307/328/120B/506/34 of the Indian Penal Code are hereby quashed so far as the present petitioner is concerned.

I further direct that as this case has been declared to be the second FIR, the benefit extended to this petitioner be also extended to other accused persons. The rest of the accused persons will take out an appropriate application before the learned Additional Chief Judicial Magistrate, Basirhat who would act in accordance with law in respect of other accused so far as Basirhat Police Station Case No. 56 of 2020 dated 14.01.2020 is concerned.

Accordingly, the revisional application being CRR 545 of 2021 is allowed.

All pending connected applications, if any, are consequently disposed of.

Case diaries be returned to Mr. Sur, learned advocate for the State.

The Investigating Officer of the case is present in Court. His further appearance before this Court is dispensed with.

All parties shall act on the server copy of this order duly downloaded from the official *website* of this Court.

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

(Tirthankar Ghosh, J.)