

16.08.2022
Item no.33.
Court No.6.
AB

CRR No. 582 of 2021

In the matter of : Smt. Pratimarani Majumder & Anr.

.....Petitioners.

Mr. Jayanta Narayan Chatterjee,
Ms. Nandini Chatterjee,
Mr. Supreem Naskar,
Ms. Jayashree Patra,
Ms. Sreeparna Ghosh,
Ms. Dipanwita Dasfor the Petitioners.

Learned Advocates on behalf of the petitioners appear.

The affidavit of service affirmed on August 10, 2022 is submitted in Court today, which shows that notice has duly been served upon the State opposite party as well as the private opposite party. However, in spite of proper and good service, none appears either on behalf of the State or the private opposite party. Hence, without wasting any further time, the matter is taken up for hearing and delivering order.

Petitioners have filed the instant revision case with the prayer for quashing of all proceedings in connection with G. R. Case No.242 of 2019 arising out of Lake Town P.S. Case No.52 of 2019 dated April 4, 2019 under Sections 498A/325/34 IPC and Sections 3/4 of the D. P. Act. After investigation, police submitted charge sheet in the case against two of the accused persons i.e. the present petitioners on July 30, 2019.

Pertinent to mention that during pendency of the present criminal revision case, one of the petitioners i.e. petitioner no.2, who happens to be the son of petitioner no.1 and ex husband of opposite party no.2, has breathed his last on May 8, 2021. Photocopy of the death certificate has been submitted in Court today.

It is further submitted that the octogenarian petitioner no.1 was unable to affirm any supplementary affidavit to disclose the fact of death of petitioner no.2 and the brother of petitioner no.2 lives abroad. Therefore, there is no one in the family to either affirm an affidavit or act as Tadbirkar of the case. Considering the facts and circumstances, the copy of the death certificate is incorporated in the records and judicial notice of the same is taken.

The fact of the case in a nutshell may be narrated as follows:

Petitioner no.2, now deceased, and opposite party no.2 were divorced by a decree of Lok Adalat dated March 29, 2007. After being divorced, the opposite party no.2 came up with first information report in the Lake Town Police Station, which was filed on April 4, 2019 and registered as Lake Town P.S. Case No.52 of 2019 Dated 4th April, 2019 under Sections 498A/325/34 of the Indian Penal Code read with Sections 3 /4 of the D. P. Act. Opposite party no.2 in her first information report made allegations against both the petitioners and two other family members of them, of accepting huge dowry at the

time of marriage and also subjecting her to physical and mental torture on demand of more dowry.

It is further stated that as she gave birth to a girl child, she was subjected to more physical and mental torture. Upon such first information report, investigation was started and ultimately on July 30, 2019, police submitted charge sheet against the present two petitioners (petitioner no.2 now being deceased) and the other two accused persons were not sent up in the said charge sheet. The charge sheet was filed under Sections 498A/323/34 IPC and Sections 3 /4 of the D. P. Act. By dint of an order dated September 27, 2019, the Trial Court has taken cognizance of the offence (connected G. R. Case No.242 of 2019). Petitioners (petitioner no.2, now being deceased) have come up under Section 482 Cr.P.C. to challenge the proceedings in the above mentioned G. R. Case pending in Trial Court and pray for an order of quashing of the proceedings.

On behalf of the petitioners, Mr. Chatterjee, emphatically submits that during pendency of the present case, the petitioner no.2 died. It is further submitted that so far as petitioner no.1 (mother in law) is concerned, there can be found hardly any cogent and sufficient material against her so that the proceedings pursuant to the above stated provisions of law can be continued against her. He further submitted that suppressing the fact of divorce between the parties, opposite party no.2 has motivatedly set the criminal justice system in motion by lodging first information report only with vindictive and mala fide

intentions. According to him, the proceedings in connection with the G. R. Case No.242 of 2019 are liable to be quashed and set aside.

Heard submissions. Perused the materials submitted in Court with the present case. The first information report, in particular, states about involvement of all the persons named therein including these two petitioners to be involved in the alleged offence. However, the same is devoid of any particulars regarding the nature and extent of involvement of petitioner no.1, any other particulars like specific date etc. or any supporting medical documents. The nature of the allegations is only general against the petitioner no.1 without indicating any specific involvement of her in the alleged acts.

Under such circumstances, in my considered opinion, the findings against her made in the charge sheet dated July 30, 2019 as well as taking cognizance of the case by the Trial Court on the basis of the said charge sheet seriously lacks necessary ingredients in order to proceed with the case. In my considered opinion, in view of the existing material against the petitioner no.1, there should have been no cogent and constructive case made out against her. As such, on the findings as above, I am inclined to hold that the present revision case merits success and the impugned proceedings in connection with the G. R. Case No.242 of 2019 is liable to be quashed and set aside.

On the findings as above, it is ordered that the impugned proceedings in connection with G. R. Case No.242 of

2019 arising out of Lake Town P. S. Case No.52 of 2019 Dated 4.4.2019 under Sections 498A/325/34 IPC and Sections 3/4 of the D. P. Act is quashed.

Interim order, if any, stands vacated.

C.R.R. No.582 of 2021 is, accordingly, disposed of.

Urgent photostat certified copy of this order, if applied for, be supplied expeditiously after compliance with all the necessary formalities.

(Rai Chattopadhyay, J.)