

CRR 946 of 2020
(Via video conference)

In Re: An application under Section 401 read with Section 482 of
the Code of Criminal Procedure, 1973.

In the matter of : Ehesanul Hoque @ Ahesanul Hoque
.....Petitioner

Mr. Mujibar Ali Naskar
Mr. Jhangir Alam ...for the petitioner

Mr. Madhusudan Sur, Ld. APP
Mr. Manoranjan Mahata ...for the State

The petitioner has challenged the proceedings arising out of
Chanchal Police Station Case No. 386 of 2017 dated 2.7.2017
under Sections 498A/302/34 of the Indian Penal Code, 1860.

The petitioner was aggrieved by the order dated 3rd March,
2020 passed by the learned Additional Sessions Judge, Chanchal,
Malda wherein the learned Sessions Court was pleased to dismiss
the application under Section 227 of the Code of Criminal
Procedure praying for discharge of the present petitioner.

The background of the present case relates to a complaint
being lodged against the husband and in-laws of the deceased for
demand of dowry, physical and mental torture and subsequently,
the dead body of the deceased being recovered from the in-law's
house.

The investigating authorities after completion of the
investigation submitted charge-sheet against Alam @ Faruk,
Mabuda Bewa, Musrefa Khatun and Ehasanul Haque who
happened to be the husband, mother-in-law and sister-in-law of

the deceased. Charge-sheet was also filed against the present petitioner.

The prosecution/investigating agency in order to prove its case relied upon 19 witnesses. The present petitioner is not a relation of the in-laws family but is a respectable person of the locality as the same surfaces from the evidence collected by the investigating agency and the in-laws used to report some of the incident of quarrel which occurred in the regular family life to the petitioner. There are no other allegations against the present petitioner so far as the complicity in the alleged offence in any form either by way of conspiracy or by way of abatement or any direct evidence. The only question against the present petitioner is in the complaint where he has been cited to be an accused by the father of the deceased.

However, in the complaint, no overt acts or role has been attributed or any document for further dowry or for any physical or mental torture to the present petitioner has been relied upon.

The investigating officer, in course of investigation, examined number of witnesses which included the neighbours as well as local people in the vicinity but none of them alleged any complicity of the present petitioner so far as the alleged offence is concerned, but the name of the petitioner is appearing in a number of statements (as has been stated above) that since he was a respectable person of the locality, the members of the in-laws house used to report the incidents of quarrel to the present petitioner.

The aforesaid being the scenario, I am of the opinion that the evidence presently available, is not sufficient to ask the petitioner to face a cordial of trial.

Accordingly, all further proceedings arising out of Chanchal Police Station Case No. 386 of 2017 dated 2.7.2017 including the order dated 3rd March, 2020, is quashed, so far as the petitioner is concerned.

The petitioner is discharged from the instant case however, in course of trial if materials surface against this petitioner of any overt acts or complicity, the learned trial Court would be at liberty to invoke the provision of Section 319 of the Code of Criminal Procedure.

Accordingly, the revisional application being CRR 946 of 2020 is allowed.

Pending applications, if any, are consequently, disposed of.

Interim order, if any, is hereby vacated.

The Case Diary be returned to the learned advocate for the State.

The trial should continue against the other accused persons.

All parties are to act on the server copy of this order, duly obtained from the official website of this Court.

(Tirthankar Ghosh, J.)