

10.08.2022
Item No.7.
D/L.
Mithun
Ct.42

IA No: CRAN/1/2021
In
CRR 814 of 2021
Kalyani Majumder
Vs.
State of West Bengal & Anr.

Mr. Mrityunjoy Chatterjee Adv.
Mr. Debasish Basu, Adv.

...for the petitioner.

Mr. Angshuman Chakraborty, Adv.
Mr. S.S.Saha, Adv.

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

Mr. Bidyut Kumar Roy, Adv.
Ms. Sima Biswas, Adv.

...for the State.

The petitioner is the mother-in-law of the opposite party No.2/de-facto complainant. The petitioner has filed the instant revision invoking inherent power of this Court under Section 482 of the Code of Criminal Procedure praying for quashing of all further proceedings in connection with A.C.G.R. Case No.846 of 2017 arising out of Regent Park Police Station Case No.45 of 2017 dated 20th February, 2017 under Sections 498A/406/34 of the Indian Penal Code presently pending before the 4th Court of the learned Judicial Magistrate at Alipore.

It is alleged by the petitioner that on the basis of a written complaint submitted by the

opposite party No.2 against her husband, the present petitioner and her husband, since deceased, Regent Park Police Station Case No.45 of 2017 under Sections 498A/406/34 of the Indian Penal code was registered. The investigation of the case ended in filing charge-sheet. It is contended by the petitioner that out of the three accused persons, the father-in-law of the de-facto complainant has expired. The petitioner being the mother-in-law is an old lady aged about 68 years. From the documents supplied to the petitioner by the Court below, it appears that there is absolutely no allegation against the petitioner, which prima facie establishes a case under Sections 498A/406 of the Indian Penal Code. Therefore, the petitioner has prayed for quashing of the above-mentioned proceeding as against her.

It is submitted on behalf of the opposite party that from the statement of the witnesses recorded under Section 161 of the Code of Criminal Procedure, complicity of the present petitioner is established and at this stage, the proceeding cannot be quashed.

It is submitted by Mr. Chatterjee that from the documents supplied to the petitioner after submission of charge-sheet it transpires that all the

witnesses whose names are appearing in the charge-sheet, are close relatives of the paternal home of the opposite party No.2. The Investigating Officer could not examine any independent witness to prove the allegation against the petitioner at the time of investigation. The witnesses on behalf of the prosecution being close relatives of the opposite party No.2 and highly interested and their statements cannot be taken into consideration.

Mr. Chakraborty, learned Advocate for the opposite party No.2, on the other hand, submits that in a case arising out of matrimonial dispute, discord is not generally made public and the relatives of the victim are the most reliable and natural witnesses whose statements cannot be thrown away at this stage without trial on the ground of interestedness.

Mr. Roy, learned Advocate on behalf of the State has submitted a memo of evidence and the present case status of Regent Park Police Station Case No.45 of 2017 filed the Investigation Officer. It is learnt from the said report that there is a rival claim over some gold ornaments kept in the locker at Netajinagar i.e. the local jurisdiction where the matrimonial home of the opposite party No.2 situates because both the petitioner and the opposite party No.2 are claiming ownership of the

said ornaments. The said dispute has not been resolved as yet.

Having heard the learned Counsel for the parties and on perusal of the entire materials on record, this Court is of the view that before consideration of charge by the Trial Court, the instant proceeding cannot be quashed on the ground that continuation of such proceeding will cause miscarriage of justice and it will be abuse of the process of the Court.

When specific evidence has been collected by the Investigating Officer in the form of statement of the witnesses under Section 161 of the Code of Criminal Procedure, those statements are to be tested with the evidence adduced by the witnesses during trial of the case.

Therefore, at this stage of proceeding when charge-sheet has been submitted against the petitioner and her son, I am not inclined to quash the proceeding.

The instant revision, is, thus, **dismissed on contest.**

(Bibek Chaudhuri, J.)