

17.6.2022
Court No.29
Sl. No. 9
SD

CRR 1180 of 2018
With
CRAN 1 of 2018
(Old CRAN 3106 of 2018)

In the matter of: Smt. Anita Das

....petitioner.

Ms. Sreeparna Das
Ms. Ritu Das

... for the Petitioner.

Ms. Anasuya Sinha
Ms. Jonaki Saha

... for the State.

Mr. Soumya Ray

... for the Opposite Party No.2.

Present revisional application has been directed for quashing the proceeding being G.R. No.3810 of 2014 under Sections 448/323/506 of the Indian Penal Code arising out of Jagacha Police Station Case No. 250 of 2014 dated June 8, 2014 pending before the Court of the learned Municipal Magistrate, Howrah.

The petitioner has contended that the petitioner is a widow who happens to be the unfortunate daughter-in-law of the opposite party no.2. On June 8, 2014 an FIR was lodged by the opposite party no.2 to the Officer-in-Charge, Jagacha Police Station against the present petitioner seeking an investigation on a baseless allegation that the petitioner was illegally tried to oust and/or injure the opposite party no.2.

After making purported investigation by the investigating authority, they have submitted charge-sheet being Charge-Sheet No.359 of 2014 on October 31, 2014 under Sections 448/323/506 of the Indian Penal Code. Learned Chief Judicial Magistrate, Howrah took cognizance upon those sections and was pleased to transfer the case to the Court of learned Municipal Magistrate, Howrah for conducting trial.

Ms. Sreeparna Das, learned counsel appearing on behalf of the petitioner, strenuously argued that even if the prosecution story is accepted to be gospel truth, then also the placement of facts singularly lacks either of the ingredients of offence punishable either under Section 448 or under 323 or under 506 of the Indian Penal Code. In the charge-sheet, no specific role has been attributed against the present petitioner and only on the basis of bald allegations the continuation of the instant proceeding under the abovementioned sections could be an abuse of process of Court.

M.S. Das further contended that law is well-settled that mere mention of relevant sections and languages are not sufficient unless the allegations levelled in the FIR constitutes any offence. Moreover, the materials in the charge-sheet lacks the basic ingredients of each section for accusing the petitioner for commission of the offence alleged. Learned Magistrate under Section 23 of the Protection of Women from Domestic Violence Act on May 2, 2014 was pleased to grant the petitioner the order of residence as well as protection order and the learned Magistrate was further pleased to direct the opposite party no.2 along with other in-laws of the petitioner not to disturb the petitioner with her peaceful possession at her matrimonial house. Accordingly, petitioner intimated the Officer-in-Charge of the Jagacha Police Station about the order passed by the learned Magistrate and also informed the Officer-in-Charge that in terms of the said order, the petitioner along with her two minor children and her brother would be visiting the matrimonial house of the petitioner on June 8, 2014 between 12 p.m. to 2 p.m. Even after communication of the said order dated May 2, 2014, the petitioner failed to receive any assistance or help whatsoever from the opposite party no.2 and when the petitioner showed the order of the learned Magistrate to the opposite party no.2,

she handed over the key of the room of the husband of the petitioner but only with a threat of dire consequences.

Getting frightened the petitioner left the premises with her minor children and subsequently she came to know that the present proceeding has been initiated against the present petitioner. The petitioner has already filed an application under Section 31 of the Protection of Women from Domestic Violence Act for appropriate relief before the learned Magistrate but the same is still pending. The petitioner herein has prayed for quashing the entire proceeding being G.R. No.3810 of 2014 under Sections 448/323/506 of the Indian Penal Code arising out of Jagacha Police Station Case No.250 of 2014 dated June 8, 2014.

Mr. Soumya Ray, learned counsel appearing on behalf of the opposite party no.2, submits that defacto complainant is aged about 80 years, who was humiliated and assaulted by the petitioner herein and as such, the investigating authority has rightly submitted charge-sheet against the present petitioner under the abovementioned consequences.

Ms. Jonaki Saha, learned counsel appearing on behalf of the State submits that the materials collected so far during investigation constitutes offence under Sections 448/323/506 of the Indian Penal Code and accordingly, police has rightly submitted charge-sheet under the abovementioned provision of law.

Having considered the facts and circumstances of the case, materials available in the case diary including the statements recorded under Section 161 of the Code of Criminal Procedure, the complaint and the injury report, it prima facie discloses cognizable offence against present petitioner and as such quashing of the present proceeding does not arise at this stage.

In view of the above, CRR 1180 of 2018 along with CRAN 1 of 2018 (Old CRAN 3106 of 2018) stands dismissed.

However, liberty is given to the petitioner to agitate all her points before the trial court at the time of hearing of the charge or at any subsequent stage in support of her prayer for discharging her from this case.

Urgent photostat certified copies of this order may be delivered to the learned Advocates for the parties, if applied for, upon compliance of all formalities.

(Ajoy Kumar Mukherjee, J.)