

10.11.2022
Court No.652
Sl. No.11
SD

CRR 1813 of 2022
With
CRAN 1 of 2022

In the matter of: Pankaj Kumar Mandal

....Petitioner.

Mr. Rudrajit Sarkar
Mr. Avik Ghatak
Mr. Aditya Tiwary
Mr. T. Saha

... for the Petitioner.

Mr. P.K. Datta
Mr. Santanu Deb Roy

... for the State.

This is an application under Section 482 of the Code of Criminal Procedure seeking quashing of proceeding being G.R. Case No.4184 of 2021 arising out of Eco Park Police Station FIR Case No.263 of 2021 dated 05.10.2021 under Sections 498A/506 of the Indian Penal Code.

In the FIR, it is alleged that the defacto complainant had married the son of the petitioner, namely, Somnath Mandal on April 20, 2006 which was the second marriage for both the defacto complainant as well as Somnath Mandal and they both had children from their respective earlier marriages.

It is alleged that after few years of her marriage, the petitioner's son i.e. her husband and her in laws became very aggressive towards the defacto complainant and used to treat her daughter like a guest and in absence of her husband, the mother-in-law of the defacto complainant repeatedly threatened defacto complainant to take care of her step son. It is further alleged that the mother-in-law of the defacto complainant wrote a letter that the defacto complainant should not be planning for having another child and if the defacto complainant said anything to her husband Somnath Mandal, he would always take the side of her mother stating that her mother is correct.

Further allegation of petitioner in FIR is whenever her husband came to home, he used to torture her mentally with abusive language and her mother-in-law forced her to divorce her son otherwise threatened to ruin her daughter's life. Finally she alleged in FIR that her in laws have intentionally tortured complainant and her daughter mentally by never calling, caring or paying heed to her.

Mr. Avik Ghatak, learned counsel appearing on behalf of the petitioner, submits that upon completion of investigation, the investigating authority has filed charge sheet under Section 498A/506 against the present petitioner and five others.

The petitioner further submits that the petitioner is absolutely innocent and in no way connected with the alleged offence and no allegation whatsoever has been leveled against him in the FIR. Moreover, there is no mention anywhere in the materials collected by the investigating agency, in the course of purported investigation, about any physical assault or mental torture having been perpetrated upon the defacto complainant by the petitioner herein which required medical intervention. In fact, no medical professional has been named as prosecution witness in the charge sheet, which shows that she was never subjected to any physical assault.

Learned counsel appearing on behalf of the petitioner further submits that except casual references about the petitioner and other family members, there is absolutely no allegation of petitioner's active involvement in inflicting alleged torture upon the defacto complainant justifying therein, taking cognizance of the offences against the petitioner and by completely overlooking the fact that there is always a tendency on the part of the complainant/ wife to involve all the family members of the household in the offence over a domestic quarrel taken

place between the husband and the wife, for the mere reason that such family members are related to the husband of the complaint.

Mr. Ghatak further submitted learned Magistrate has taken cognizance in respect of the offence against the present petitioner. The letter of complaint that led to the initiation of the instant case i.e. the FIR is sadly vague with regard to the role apparently played by the petitioner in the commission of the offence. There is no mention anywhere as to what specific offence has been committed by the petitioner or when it was committed or what is the exact role that was played by the petitioner in respect of the commission of alleged offence.

Mr. Ghatak further submits in order to lodge a proper complaint, mere mention of the sections and the language of those sections are not all. What is required to be brought to the notice of the court is the particulars of offence committed by each and every accused and the role played by each and every accused in committing of that offence.

Accordingly, he submits that even if the allegation leveled by the defacto complainant/opposite party is taken to be gospel truth, it does not attract either under Section 498A or 506 of the Indian Penal Code in respect of the present petitioner. Practically charge sheet submitted against the petitioner is a stereotype in nature and submitted in a casual manner without any reason and as such, continuation of the impugned proceeding against the petitioner herein would be gross abuse of the process of court. Accordingly, prayed for quashing of the aforesaid proceeding against the present petitioner.

Mr. P.K. Datta, learned counsel appearing on behalf of the State, has produced the case diary and leave the matter to the discretion of the court, stating that statement of only two witnesses were recorded

during investigation under section 161 of the Code as appearing from case diary.

On perusal of the case diary, it appears that during investigation police has recorded the statement of two witnesses under Section 161 of the Code of Criminal Procedure and said two statements does not disclose any offence against the present petitioner. Neither in the FIR nor in the statements recorded under Section 161, any specific allegation has been attributed against the present petitioner. I do not find any other incriminating material in the case diary in respect of the petitioner. The object veiled behind implicating present petitioner with the alleged offence apparently to harass petitioner. In ***Kahkashan Kausar @ Sonam & others Vs. State of Bihar and others*** reported in **2022 SCC OnLine (SC) 162** Apex Court observed in paragraph no. 17:-

“17. The abovementioned decisions clearly demonstrate that this Court has at numerous instances expressed concern over the misuse of Section 498-A IPC and the increased tendency of implicating relatives of the husband in matrimonial disputes, without analysing the long-term ramifications of a trial on the complainant as well as the accused. It is further manifest from the said judgments that false implication by way of general omnibus allegations made in the course of matrimonial dispute, if left unchecked would result in misuse of the process of law. Therefore, this Court by way of its judgments has warned the courts from proceeding against the relatives and in-laws of the husband when no prima facie case is made out against them.”

In view of the aforesaid facts and circumstances of the case, I find that continuation of the present proceeding against the present petitioner will be an abuse of process court as materials available before me does not disclose any offence against present petitioner of and as such, I find that this is a fit case where the inherent power under Section 482 is required to be exercised.

In view of the above, the revisional application being CRR 1813/2022 is accordingly allowed.

Let all further proceedings in G.R. Case No.4184 of 2021 arising out of Eco Park Police Station FIR Case No.263 of 2021 dated 05.10.2021 under Sections 498A/506 of the Indian Penal Code against the present petitioner is hereby quashed.

In view of the same, CRAN 1 of 2022 is accordingly disposed of.

(Ajoy Kumar Mukherjee, J.)