

22.09.2022

Item No.54
Ct.No.34
dc.

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION**

C.R.R. 1490 of 2021

**Smt. Chaitali Roy
versus
The State of West Bengal & Anr.**

In Re: An Application under Section 482 of the Code of Criminal Procedure, 1973.

Mr. Shatarup Purakayastha,
Mr. Amitava Bhowmik,
Ms. Jagriti Bhattacharya ... For the Petitioner.

Mr. Debabrata Chatterjee,
Ms. Manisha Sharma ... For the State.

The subject-matter of this revisional application relates to quashing of the charge-sheet submitted in connection with Baranagar Police Station Case No. 206 of 2020 dated 03.06.2020 under Sections 498A/406/506/323/325/34 of the Indian Penal Code.

Mr. Purakayastha, learned advocate appearing for the petitioner submits that the petitioner is mother-in-law of the complainant and has been falsely implicated in the instant case. Learned advocate submits that there are no allegations against her and because of the relationship and on certain omnibus allegations, the police authorities have submitted charge-sheet against the present petitioner. Learned advocate further submits that the complainant was in the matrimonial home for two days prior to she being shifted to USA with her husband and after returning from USA, she directly went to her paternal home. As such, the allegations particularly with regard to physical and mental torture as also wrongful

retention of the Streedhan articles are against the materials present and as such, the proceedings so far as the present petitioner is concerned should be quashed.

Ms. Manisha Sharma, learned advocate appearing for the State submits that the investigating authority on conclusion of investigation has submitted charge-sheet and the charge-sheet is based on support of eight witnesses of whom six witnesses including the complainant have been consistent in their version.

I have perused the allegations made in the letter of complaint as also the statements of Anjan Dutta, Sikha Dutta, Tithi Basu, Anirban Bhattacharya and Manas Nag. I find that there is consistency so far as the statements regarding the complicity of the present petitioner is concerned in the complaint made by the complainant that of the father and mother of the complainant along with one Tithi Basu who has corroborated the same. In this case, charge-sheet has been submitted under Sections 498A/406/506/323/34 of the Indian Penal Code. The allegations made by the complainant and the other witnesses attribute complicity of the present petitioner in two respects. Firstly, regarding retention of the Streedhan articles which were seized in course of the investigation and in respect of which in paragraph 4 of the complaint, it has been stated that the same was refused to be handed over when demanded by the complainant as also the issue of mental torture being inflicted upon her. There may be case of the petitioner that her son and the daughter-in-law were not staying with her after

marriage and were staying at different locations which are far from her home, but at this stage, it would not be fit and proper to rely upon the documents which are not of unimpeachable nature.

Having regard to the stage of the case, I am of the opinion that detailing on the maintainability of the Sections would prejudice the future course of criminal case. As such, the complicity of the petitioner is not gone into in details.

Learned advocate appearing for the petitioner has also relied upon a decision of Hon'ble Supreme Court in ***Neelu Chopra Vs. Bharti*** reported in ***(2009) 10 SCC 184***. Paragraph 7 of the said judgment is set out as follows :

“7. When we see the complaint as a whole it is basically against the accused Rajesh. All the allegations are against Rajesh. There is undoubtedly some reference to the present appellants, but what strikes us is that there are no particulars given as to the date on which the ornaments were handed over, as to the exact number of ornaments or their description and as to the date when the ornaments were asked back and were refused. Even the weight of the ornaments is not mentioned in the complaint and it is a general and vague complaint that the ornaments were sometime given in the custody of the appellants and they were not returned. What strikes us more is that even in Para 10 of the complaint where the complainant says that she asked for her clothes and ornaments which were given to the accused and they refused to give these back, the date is significantly absent.

I have considered the case relied upon by the learned advocate for the petitioner. In the said judgement, it has been categorically observed by the Hon'ble Supreme Court that specific allegations are missing over there so far as the offences relating to Sections 498A/406 of the Indian Penal Code read with Section 114 of the Indian Penal Code are concerned and the learned Magistrate took cognizance of the complaint.

The learned advocate for the petitioner has also relied upon a decision of the Hon'ble Supreme Court in ***Kahkashan Kausar alias Sonam & Ors. Vs. State of Bihar & Ors.*** reported in ***(2022) 6 SCC 599***. The facts of the said case relate to two FIRs; one being FIR No. 248/2019 and the earlier was a complaint case instituted before the learned Sub Divisional Judicial Magistrate Court, Purnea. The thrust of the said case was that it was the bounden duty of the investigating officer in a case of matrimonial discord, first to conduct a preliminary enquiry to find out whether any other cases are pending and then register the subsequent FIR. In the said background, the Hon'ble Supreme Court dealt with the celebrated judgements in ***Preeti Gupta & Anr. Vs. State of Jharkhand & Anr.*** reported in ***(2010) 7 SCC 667***, ***Geeta Mehrotra & Anr. Vs. State of U.P. & Anr.*** reported in ***(2012) 10 SCC 741*** and ***K. Subba Rao Vs. The State of Telangana*** reported in ***(2018) 14 SCC 452*** and arrived at its conclusion.

In this case, the petitioner has not been able to show that except the present case, any other complaint has been

lodged or is pending before any other authority and there has been harassment because of the petitioner being implicated twice in respect of the selfsame set of allegations.

Be that as it may, the materials appearing in the present case particularly, the allegation in the complaint being supported by other witnesses is required to be placed before the court of law and is to be tested on the anvil of cross-examination. The truth or falsity of the same cannot be gone into at this stage when the learned trial court is yet to consider the charges.

Having regard to the observations made above, I am of the opinion that no interference is called for in the present revisional application.

Accordingly, the revisional application being CRR 1490 of 2021 is dismissed.

Interim order, if any, is hereby vacated.

All pending connected applications, if any, are consequently disposed of.

All parties shall act on the server copy of this order duly downloaded from the official *website* of this Court.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Tirthankar Ghosh, J.)