

02.12..2022
Item No. 05
BR

**CRR 2105 of 2007
CRAN 1 of 2007, CRAN 4 of 2009, CRAN 5
of 2010**

In the matter of : Debdas Sen and another

Mr., Milon Mukherjee, senior advocate,
Mr. S. Sarkar
.... For the petitioners

Mr. Provash Bhattacharya,
Mr. Mirza Firoj Ahmed Begg
.... For the State

Mr. Provash Bhattacharya, learned counsel representing the State is directed to produce the case diary on 12th December, 2022 when the matter will be appearing under the heading 'Hearing'. This criminal revision assails the order dated 18TH May of 2007 passed by learned 15th Court of Metropolitan Magistrate, Calcutta in GR Case No. 548 of 2003 , thereby rejecting the application filed by the petitioners before this Court seeking discharge.

Briefly stated Smt. Ranjita Sur initiated a criminal proceeding informing the Officer-in-Charge of Shyampukur P.S. in writing that after her marriage with Biswajit Sur she completed her 12th standard Education and wanted to take admission for graduation. Her brother -in-law Subrata Sur was against her desire to acquire higher education. She earned displeasure of her brother-in-law , his wife and her mother-in-law she was not allowed to contact her parents over phone even the married sisters of her

husband used to instigate her mother-in-law after she gave birth a male child. Subrata, his wife, his sisters, his brother-in-law did not stop torturing her even her mother-in-law made an attempt to assault her. Her husband was however all along on her side. As he voiced his protest towards the attitude of his brother and other family members he was told to quit the house. She was assaulted by Radharani, the wife of Subrata, Her mother-in-law twisted her arm even brother of Radha intervened and instigated Subrata, the brother-in-law of victim to set her ablaze. The lady somehow left her matrimonial home with her baby and informed her elder brother about her plight.

As information disclosed offense cognizable in nature Shyampukur P.S. case No. 281 dated 21.4.2003 was registered. Police took up investigation and submitted charge sheet under Section 498A of the Indian Penal Code against the petitioners Debdas Sen, and Hriday Nath Sen who are admittedly noway related to the informant. These two petitioners happen to be the elder brother of the wife of elder brother of Biswajit the husband of the victim. By no stretch of Imagination they can be brought within the definition of relative as laid down under Section 498A of the Indian Penal Code. That apart, there is hardly any ingredient of offense within the meaning of Section 498A as against these two petitioners.

The proceeding before the learned trial Court if is allowed to continue against the petitioners it will be an abuse of process of law. I am inclined to allow the petition and quash the proceedings qua the petitioners pending before the learned 15th Court of Metropolitan Magistrate, Calcutta. Impugned order stands quashed.

Let a copy of the order be sent to the learned trial Court for information and necessary action. Applications are also disposed of.

All parties are to act on the server copy of this order duly downloaded.

Urgent photostat certified copy of this order, if applied for, be given to the learned Advocates for the parties on the usual undertakings.

(Siddhartha Roy Chowdhury, J.)