

D/L 26 &
27
01.12.2022
Bpg.

C.R.R.2119 of 2021

Farha Sultana and others
Versus
The State of West Bengal and another

With

CRR 2086 of 2021
With
CRAN 1 of 2021

Zahida Shahin @ Aani & Anr.
Versus
The State of West Bengal and another

In Re: An application under Section 482 of the Code of Criminal
Procedure, 1973;

Mr. Satadru Lahiri,
Mr. Safdar Azam,
Mr. Shirsha Dasgupta,
Mr. Nasim Faruque.

...for the petitioners in CRR 2119 of 2021
and CRR 2086 of 2021.

Mr. Abhimanyo Banerjee.

...for the opposite party no.2 in CRR 2119 of
2021 and CRR 2086 of 2021.

Mr. Saswata Gopal Mukherjee, Ld. P.P.,
Mr. Imran Ali,
Ms. Debjani Sahu.

...for the State in CRR 2119 of 2021.

Mr. Saibal Bapuli,
Mr. Bibaswan Bhattacharya.

...for the State in CRR 2086 of 2021.

Both the revisional applications being CRR 2119 of 2021
and CRR 2086 of 2021 are taken up together as they arose out of

one and the same case relating to Parnasree Police Station Case No.251 dated 10.09.2021 under Sections 120B/420/379/406/506 of the Indian Penal Code.

The allegations made in the letter of complaint dated 10th September, 2021 to the Officer-in-Charge, Parnasree Police Station was against Erram Fatema, Md. Naushad, Farha Sultana, Muhammad Jawwad, Sk. Jawed, Sk. Salauddin and Zahida Shahin @ Aani. The allegations made therein relate to the fact that the complainant was aged about 28 years and was married on 11th October, 2020 with Erram Fatema according to Mohammedan rites and customs.

It has been contended that before marriage both of them had a conversation over phone in a regular manner and during the said period, the complainant/wife took several jewelleryes and mobile phone from him without his consent. However, after marriage, the complainant realised that the lady married him by way of cheating with a view to harm his reputation and also to collect money, jewelleryes from him. Additionally, it has been alleged by the complainant that he noticed that the lady did not have any love or affection for him or for his family members and was only attached to the properties. In spite of the same, the complainant gave her gold jewellery worth Rs.3 lakhs as also costly dresses and make up. However, on 5th September, 2021 while they went for honeymoon, the lady told him that she did not love him or even liked him as they had different mind set. The said statement shattered the complainant who felt alone and stood for a

considerable period of time in the balcony of the hotel. Later on 7th September, 2021, the lady arrived at his house and left the house with all the articles including the stolen items in conspiracy with her relations (named above). It has been further alleged that the accused persons threatened the complainant with dire consequences and, as such, he has been compelled to register the present FIR for offences relating to criminal breach of trust, cheating, threatening and criminal conspiracy against him.

On the basis of the aforesaid complaint, Parnasree Police Station Case No.251 dated 10.09.2021 was registered for investigation under Sections 120B/420/379/406/506 of the Indian Penal Code.

Learned advocate for the petitioners submits that the lady, namely, Erram Fatema also complained at Taltala Police Station regarding offences relating to physical and mental torture and further demand of dowry for which Taltala Police Station Case No.86 of 2021 dated 08.09.2021 was registered for investigation.

I have considered the allegations made in the letter of complaint which is the foundation of registration of the FIR. The factum that during the subsistence of the marriage if there are any gifts which a husband gives to his wife, the same cannot come within the meaning of stolen property and for that matter not even an inducement for which there can be an offence of criminal breach of trust as defined under Section 405 of the Indian Penal Code. The concept of cheating under the Indian Penal Code and the complainant's perception regarding the relationship which is the

foundation of the allegations relating to cheating are also not acceptable to this Court in view of the definition provided under Section 415 of the Indian Penal Code.

Admittedly, there is a matrimonial discord between the parties. The said matrimonial discord has already reached the Police Station and criminal case has been initiated and, as such, it can be said that presently they are at loggerheads. However, to allow a proceeding to continue there must be an offence under a prescribed statute. The allegations in the letter of complaint or the FIR do not have any ingredients of offence as alleged and are more in the nature of circumventing or preventing any criminal case which can be initiated in future.

Having regard to the fact that on the basis of such letter of complaint Parnasree Police Station decided to register a case is absolutely an abuse of the process of law, the continuance of the same is unwarranted, as such all further proceedings arising out of Parnasree Police Station Case No.251 dated 10.09.2021 under Sections 120B/420/379/406/506 of the Indian Penal Code, 1860 as also all orders passed therein are hereby quashed.

However, having regard to the fact that the complainant informed the Police Station relating to his grievances and submitted certain documents to the Police Authorities, I direct the Police Authorities on an appropriate receipt the same may be returned to the complainant which the complainant, if so advised, in future may use in any appropriate legal proceedings.

With the aforesaid observations, CRR 2119 of 2021 and

CRR 2086 of 2021 are allowed.

Pending 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 of all requisite formalities.

(Tirthankar Ghosh, J.)