

18-11-2022
Subha
Item no.23
Ct no.34

IN THE HIGH COURT AT CALCUTTA
Criminal Miscellaneous Jurisdiction

CRR 2650 of 2021

Saikat Nandi & Ors.

-versus-

The State of West Bengal & Anr.

Re : An application under Section 401 read with Section 482 of the Code of Criminal Procedure.

Mr. Soumik Ganguly
Mr. Avik Kumar Das
Mr. Dilip Kumar Sadhu
.....for the petitioner.

Mr. S. G. Mukherji, Id. PP
Mr. Imran Ali
Ms. Debjani Sahu
.....for the State.

Mr. Apurba Kumar Dutta
Mr. Kuntal Banerjee
...for the opposite party no.2.

The present revisional application has been preferred challenging the proceedings arising out of Asansol Women P. S. Case 91 of 2020 dated 04.10.2020 under Sections 498A/323/406/34 of the Indian Penal Code read with Sections 3 and 4 of the Dowry Prohibition Act corresponding to G. R. Case No. 2049 of 2020.

It has been contended that pursuant to the investigation being completed, chargesheet has been submitted against the four accused persons who have approached this court for quashing of the said proceedings. The petitioner no.1 Saikat Nandi, who happens to be the husband of the complainant/opposite party no.2, petitioner no2, Sujan Nandi is the father-in-law, petitioner no. 3, Smt. Krishna Nandi is the mother-in-law and the petitioner no. 4, Amiya Samanta who

happens to be the maternal uncle-in-law, are before this court.

The subject matter of the case arose out of a matrimonial discord in close proximity of time after the marriage. There are usual allegations of huge amount of dowry being parted at the time of marriage and further demand of the same by the husband for the purposes of loan.

The grievance of the complainant is also relating to the comments and teasing which she had to face at her matrimonial home because of the quality of the goods and she was harassed in general by the husband and the other relatives which included the four petitioners named above.

A specific incident was referred to on March 8, 2020 wherein her husband took her to her parental home in spite of being asked by the parents-in-law and maternal uncle-in-law not to go to her parental home.

Lastly, it has been contended that the accused persons insisted on a further payment of furnishing a sum of Rs.5 lakhs and in the alternative, they said that they would snap the relationship. The complainant also alleges that she was insulted and on 30th March, 2020 when she along with her father had been to her matrimonial home, she was assaulted by her husband and the mother-in-law, who throttled her neck and compelled her to leave the matrimonial home along with her father.

Mr. Ganguly, learned advocate appearing for the petitioners states that the complainant stayed only for two days at the matrimonial home and narrated the incident both in an embellished

and a distorted manner.

Learned advocate further submits that there was no scope for any torture in view of the complainant having stayed majority period of post-marriage at her parental home.

The allegations have been bolstered up to suit her requirements for registration of the present FIR and for harassing her husband and the other inmates of the matrimonial home.

According to the learned advocate for the petitioners, further continuance of the proceedings would be an abuse of the process of the court and if the same is allowed to continue will degenerate itself into a weapon of harassment, as such, this court should interfere for termination of the said proceedings before the learned Magistrate.

Learned advocate appearing for the opposite party/de facto complainant submits that the complainant was harassed, humiliated and tortured at the matrimonial home and the same would be reflected from the letter of complaint wherein the quality of the goods which were gifted were a subject matter of discussion and for which she had to suffer taunts and teasing by the members of the matrimonial home. The allegations also incorporate that she being assaulted by the inmates at her matrimonial home in front of her father.

Ms. Sahu, learned advocate appearing for the State produces the case diary and draws the attention of this court to the further statement of the complainant being recorded along with the statement of Nityananda Karmakar, Uttam Karmakar being parents of the complainant.

Learned advocate has also drawn the attention to the statement of the doctor along with the certificates and prescriptions which have been collected by the Investigating Officer of the case.

I have perused each of the statements on which the prosecution has proposed for further proceedings in trial and I find that the allegations against the accused, Sujan Nandi (petitioner no. 2) and Amiya Samanta(petitioner no. 4) are too general and not specific so as to ask them to face the rigors of trial.

Accordingly, all further proceedings arising out of Asansol women P. S. Case No. 91 of 2020 dated 04.10.2020 so far as the aforesaid two petitioners are concerned are hereby quashed.

However, so far as the petitioner no. 1, Saikat Nandi and petitioner no. 2 , Smt. Krishna Nandi is concerned being husband and the mother-in-law of the opposite party no.2/complainant, I am of the opinion that specific allegations relating to assault and insult has been attributed by the complainant which is reflected in the statement of the complainant and her parents.

Additionally, certain medical documents have been produced by the prosecution which reflects that the doctor has recorded that the injury sustained was because of the assault being inflicted by the husband and mother-in-law, which directly points to the complicity of the petitioner no. 1 and the petitioner no. 3 namely, Saikat Nandi and Smt. Krishna Nandi.

Having regard to such allegations, I direct that the proceedings against the aforesaid two accused persons should continue before the learned trial court and so far as the prayer advanced by them is

concerned, the same is hereby quashed.

Accordingly, the learned Chief Judicial Magistrate, Asansol is directed to proceed with the trial of the case either by himself or delegate the same to any court of his choice so that the proceedings may continue against the petitioner no. 1, Saikat Nandi and Smt. Krishna Nandi in accordance with law.

Thus, the revisional application being CRR 2650 of 2021 is disposed of.

Pending applications, if any, are consequently disposed of.

The learned trial court would within a period of 60 days from the date of the communication of this order frame charge and proceed with the trial of the case. The learned trial court would fix at least one schedule in a month which would consist of three days and there should be a schedule fixed in each and every month so that the trial of the case can be taken to its logical conclusion within a reasonable period of time preferably by 31st January, 2024.

Any observations made by this court is for the limited purpose of disposal of the present revisional application. The learned trial court would not be bound by the same and would exercise his independent discretion while arriving at its conclusion at any stage of the proceedings.

All concerned parties are to act in terms of a copy of this order duly downloaded from the official website of this court.

[Tirthankar Ghosh, J]

