

23.6.2022
S.D.
12.

C.R.R. 2849 of 2015

Sri Debashish Chakraborty & Ors.
Vs.
The State of West Bengal & Anr.

Mr. Bibaswan Bhattacharya
Mr. Anupam Bar

...For the petitioners.

Mr. Bidyut Kumar Roy
Ms. Rita Dutta

....For the State.

The revisional application filed under Section 482 of the Cr.P.C. is listed today for hearing.

Mr. Bibaswan Bhattacharya and Mr. Anupam Bar, learned advocate for the petitioner and Mr. Bidyut Kumar Roy with Ms. Rita Dutta, learned advocates for the State are present.

The revisioal application is heard at length. Perused the Case Diary produced.

The petitioners herein are the husband, elder brother-in-law, elder-sister-in-law and third elder brother-in-law of the defacto complainant. The petitioners have prayed for quashing of the proceeding in B.G.R. Case No. 3412 of 2010 pending before learned Judicial Magistrate, 9th Court, Alipore under Section 498A/34 of the IPC, arising out of Thakurpukur Police Station Case No. 306 of 2010 dated 28.6.2010 under Section 498A/34 of the IPC and all orders passed therein.

Learned advocates for the petitioners submitted that they are not pressing the application for Debashish Chakraborty, the husband, but their main contentions is that petitioner no. 2, Ashok Chakraborty, petitioner no. 3, Krishana Chakraborty and petitioner no. 4, Dilip Chakraborty have been falsely implicated as they do not reside in the joint mess of the petitioner, Debashish Chakraborty and Sharmistha Chakraborty since their marriage. It is further submitted that in this case, charge sheet has already been submitted, but there is no material against petitioner nos. 2 to 4 for trial and the proceeding against them if continued would be an abuse of the process of court.

Learned advocates for the State while producing the Case Diary stated that the accused petitioners are all named in the FIR. Referring to the statements of the witnesses, namely Soumak Mukherjee and Kalpana Das submitted that the said witnesses at the time of their examination under Section 161 of the Cr.P.C. has stated that after the marriage, Sharmistha was subjected to physical and mental torture by her husband and other inmates of the matrimonial home on demand for more dowry. It is further submitted that in the Memo of evidence, it is stated that de facto complainant has also been examined. Learned advocate for state submitted that the revisional application is liable to be dismissed.

Considered the submissions made by learned advocates for both parties as well as the materials in the Case Diary. It appears to me that the Investigating Officer has examined only two persons and recorded their statements under Section 161 of the Cr.P.C. The names of petitioner

nos. 2, 3 and 4 do not surface from the statements of the witnesses recorded so far. The Investigating Officer does not appear to have investigated the case in proper manner and recorded the statements of both the witnesses in mechanical stereotype manner which itself reflect that he did not perform his responsibility properly and conscientiously. No details have been noted. No attempt was made for enquiry into the matter by examining other witnesses. The Investigating Officer has not taken the trouble to record any separate statement of the defacto complainant. Even if it is assumed that the defacto complainant made statement consistent with her earlier statement in the FIR, it would lack necessary corroboration.

Under such circumstances, I find no material to proceed further with petitioner nos. 2, 3 and 4. The proceeding in respect of Ashok Kumar Chakraborty, Krishna Chakraborty and Dilip Kumar Chakraborty in B.G.R. Case No. 3412 of 2010 under Section 498A/34 is quashed. The case shall, however, continue against the petitioner husband, Debashish Chakrbaorty.

The revisional application is accordingly allowed.

Interim order, if any, stands vacated. Case Diary be returned.

Let a copy of this order be communicated to learned Judicial Magistrate, 9th Court, Alipore for information.

(Ananda Kumar Mukherjee, J.)

