

IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
APPELLATE SIDE

The Hon'ble **JUSTICE BIBEK CHAUDHURI**

CRR 3934 of 2022

Santosh Kumar Sahu & Anr.

-Vs-

The State of West Bengal & Ors.

For the Petitioners: Mr. Soumyajit Das Mahapatra, Adv.

Heard on: 14 November, 2022.

Judgment on: 14 November, 2022.

BIBEK CHAUDHURI, J. : –

1. The petitioners have filed the instant revision praying for quashing of the investigational proceeding in connection with Kharagpur (Local) Police Station Case No.855 of 2022 dated 16th October, 2022 under Sections 342/448/323/354/379/506/34 of the IPC and Section 8 of the Protection of Children from Sexual Offences Act.
2. Learned Advocate for the petitioners submits as follows:-
3. The husband of the petitioner, namely, Supriyo Bardhan filed an application under Section 156(3) of the Code of Criminal Procedure alleging, certain incidents that took place on 2nd January, 7th January, 3rd February and 22nd March of 2022 against the petitioners on the allegation that the petitioner allegedly threatened the plaintiff and his wife with filthy language and intending to outrage his wife's modesty to obtain her

signature on some blank stamp papers. It is also alleged that the petitioners and his associates also threatened their minor daughter.

4. The learned Magistrate directed the jurisdictional police officer to inquire into the matter and submit a report to him. The Officer-in-Charge of Kharagpur Local P.S submitted a report on 4th September, 2022 and on the basis of such report the learned Chief Judicial Magistrate refused to pass any order under Section 156(3) of the Cr.P.C directing the police authority to register a specific case against the petitioners on the basis of the said application. Subsequently, the opposite party No.2 who is the wife of the applicant in the previous application under Section 156(3) of the Cr.P.C against the petitioners filed a complaint alleging a fictitious incident dated 31st December, 2021 and made a prayer before the learned Magistrate for sending the said application to the local police station treating the same as FIR and to start a specific case against the petitioners.

5. The learned Chief Judicial Magistrate-in-Charge vide impugned order dated 23rd September, 2022 granted the prayer of the opposite party No.2 under Section 156(3) of the Cr.P.C directing the Officer-in-Charge of Kharagpur Local Police Station to cause investigation into the case by treating the petition of complaint as FIR.

6. The learned Advocate for the petitioners submits that the issue involved in the instant revision is as to whether after dismissal of an application under Section 156(3) of the Cr.P.C filed by the husband of the complainant, a second application on selfsame facts and circumstances is

maintainable at the instance of the wife of the original complainant. Having gone through the documents annexed with the instant revision, it is ascertained that the first application under Section 156(3) of the Cr.P.C filed by the husband of the present opposite party No.2 was confined with the allegation of causing threat against the petitioners. However, subsequent application filed by the opposite party No.2 prima facie discloses offence under Sections 342/448/323/354/379/506/34 of the IPC read with Section 8 of the Protection of Children from Sexual Offences Act. Moreover, the learned Advocate for the petitioners is absolutely misconceived because an order of rejection of application under Section 156(3) of the Cr.P.C does not operate as res judicata and filing of complaint on the selfsame incident is not barred. **(See Hima Pathak vs. State of U.P : 2007 CrLJ (NOC) 132).**

7. For the reasons stated above, I do not find any merit in the instant revision and the application is summarily dismissed.

(Bibek Chaudhuri, J.)