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CRR No.3471 of 2018

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

Biplab Mukherjee & Ors.
Versus
The State of West Bengal & Anr.

Mr. Shataroop Purkayastha,
Mr. Sarbananda Sanyal,
Ms. Jagniti Bhattacharya.
...for the petitioners.

Mr. Arijit Ganguly,
Mr. Sanjib Kumar Dan.
...for the State.

Mr. Atarup Banerjee,
Mr. Tapodip Gupta.
...for the opposite party no.2.

The subject matter of challenge in the revisional application relates to quashing of the charge-sheet no.255/17 dated 24.07.2017 arising out of Durgapur Police Station Case No.364/17 dated 11.06.2017 under Sections 498A/354 /354B/406/120B/34 of the Indian Penal Code. The case is presently pending before the learned Judicial Magistrate, 2nd Court, Durgapur.

Mr. Arijit Ganguly, learned advocate appearing for the petitioners has submitted a report as well as produced the case diary and the report reflects that eight persons were implicated as accused in the charge-sheet, although the charge-sheet was submitted under the same sections of the Indian Penal Code in respect of which the FIR was registered.

Let the report be kept with the record.

I have assessed the statements available in the case diary and I find that there should not be blanket incorporation of all the charges in respect of the accused persons. So far as the husband, namely, Biplab Mukherjee, is concerned, the charges should be under Sections 498A/354/354B/406/120/34 of the Indian Penal Code. So far as Pranab Mukherjee, father-in-law, Shyamali Mukherjee, mother-in-law, Sudipta @ Subrata Mukherjee, brother-in-law and Chandana Mukherjee, sister-in-law are concerned, the charges against them should be under Sections 498A/406/120B/34 of the Indian Penal Code. So far as Somnath Chatterjee, Sourav Chatterjee and Goutam alias Bapan Pradhan are concerned, the charges would be under Sections 354/354B/120B/34 of the Indian Penal Code. These are tentative charges, the learned court should consider regarding the applicability of Sections 120B and 34 of the Indian Penal Code.

Mr. Purkayastha, learned advocate appearing for the petitioners submits that on the basis of stereotype allegations all the inmates of the matrimonial have been implicated as accused and the complainant has also resorted to certain false and fictitious allegations for the purpose of implicating three of the friends of the petitioner no.1.

The learned advocate appearing for the opposite party no.2 has resisted such contention of the petitioners.

The petitioners approached this Court at a stage when charge-sheet was submitted and the documents under Section 207

of the Code of Criminal Procedure were supplied to the accused persons. The stage at which the petitioners approached before this Court are under Sections 239/240 of the Indian Penal Code. The provisions of Section 240 of the Indian Penal Code categorically provides that “there is ground for presuming that the accused has committed an offence triable under this Chapter”.

Having regard to the statutory provisions and the documents on which the prosecution intends to rely, I am of the considered opinion that no case for discharge has been made out at the instance of the petitioners and the balance of convenience tilt is in favour of prosecution of the case. Be that as it may, this Court has not expressed any final opinion which the learned trial court would consider at the end of the trial.

With the aforesaid observations, CRR 3471 of 2018 is disposed of.

Pending application, if any, is consequently disposed of.

Interim order, if any, is hereby vacated.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Tirthankar Ghosh, J.)