

05-05-2022
Subha
Item no.33
Ct no.34

IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction

CRR 3662 of 2017
with
CRAN 6 of 2021

In the matter of : **Sandeep Todi & Ors.**petitioners.

In Re : An application under Section 482 of the Code of Criminal Procedure.

Mr. Somopriya Chowdhury
Mr. Debapratim Guha
Ms. Anchita Sarkar

....for the petitioners.

Mr. Avik Ghatak
Mr. Sohan De Dhara

...for the private opposite party no.2.

Mr. Madhusudan Sur, Id. APP,
Mr. Dipankar Paramanick

.....for the State.

The revisional application has been preferred challenging the proceedings arising out of Pragati Maidan Police Station Case No. 15 dated 13.01.2017 under Sections 341/323/506/34 of the Indian Penal Code.

The petitioners and the de facto complainant were related to each other. There was a matrimonial relationship between the sister of the de facto complainant and the petitioner no.1. There is a matrimonial discord and several proceedings are pending between the parties and the parties are at loggerheads with each other. The

present case is one of such case which was investigated and chargesheet has been submitted.

Mr. Chowdhury, learned advocate for the petitioners submits that in the background of the proceedings under Section 498A of the Indian Penal Code as well as under the provisions of PWDV Act, 2005 pending, it is very improbable such a circumstance will be invoked by the present petitioners inviting their danger and the very genesis of the case creates improbable circumstances thereby warranting interference by this court.

According to the learned advocate, the facts of the present case do not make out any offence under Section 341 of the Indian Penal Code with the purpose of wrecking vengeance because of mala fide intentions by and at the behest of de facto complainant.

Mr. Ghatak, learned advocate appearing on behalf of the private opposite party no.2/de facto complainant resists the contentions advanced by the learned advocate for the petitioner.

Mr. Sur, learned Additional Public Prosecutor appearing for the State produces the case diary. Learned advocate for the State has drawn the attention of the court to the injury report.

I have considered the statement advanced by the petitioners, the private opposite party and the learned advocate for the State. The present stage of the proceedings are after the chargesheet has been submitted before the jurisdictional court and prior to examination under Section 251 of the Code of Criminal Procedure by the concerned court.

It is settled proposition of law that at this stage, the scope of

assessment by the High Court would be to balance between “some suspicion” and “grave suspicion”.

On perusal of the case diary, I find that there is an injury report, which reflects that certain simple injuries wherein the complicity of the petitioners have been stated before a government doctor. This is in addition to the further statement under section 161 of the Code of Criminal Procedure appearing in the case diary.

Having regard to the fact that the present case in due course would be fixed for the examination of the accused persons under Section 251 of the Code of Criminal Procedure, I direct the jurisdictional court to consider any application for discharge being filed by the present petitioners drawing attention of the court regarding the discrepancies as well as the additional materials appearing in other cases of matrimonial dispute. Record reflects that the present petitioners are residents of Maharashtra.

Having regard to the same, I direct that in case the petitioners are represented through their learned lawyers with an undertaking that they would appear as and when called for by the court, the learned Magistrate would not insist on the day to day regular appearance of the petitioners until and unless the trial of the case cannot proceed without the physical appearance of petitioners.

To that effect, the learned Magistrate would consider the applications under Sections 205/317 of the Code of Criminal Procedure. No interference is made by this court so far as the merits of the proceedings are concerned.

With the aforesaid observations, the present revisional

application being CRR 3662 of 2017 is disposed of.

All pending applications, if any, in connection with the revisional application, are consequently disposed of.

Interim order, if any, is, hereby vacated.

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]