

26-04-2022
Subha
Item no.14
Ct no.34

IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction

C.R.R 1387 of 2020

In the matter of : **Pydi Naga Anil Babu Naidu & Ors.**petitioners.

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

Mr. Sabyasachi Banerjee
Mr. Arup Nath Bhattacharyya
Ms. Sayani Das
Mr. Amitayu Kundu
Ms. Sreetama Biswas

....for the petitioners.

Mr. Niladri Sekhar Ghosh
Ms. Sampurna Chatterjee
Mr. Sourav Mondal

.....for the private opposite party.

Mr. S. S. Imam
Mr. Md. Kutubuddin

....for the State.

Supplementary affidavit so filed be kept with the record.

The present revisional application has been preferred challenging the proceedings being A.W.P.S KGP P. S. Case No. 02 of 2020 dated 20th January, 2020.

Mr. Banerjee, learned advocate appearing on behalf of the petitioners submits that the petitioners have been falsely implicated in the present case and the F.I.R was registered all of a sudden out of a single incident, although there were earlier cases relating to Section 9 of the Hindu Marriage Act, Section 125 of the Code of Criminal Procedure and Section 13 of the Hindu Marriage Act.

Learned advocate for the petitioners draws the attention of this court to the contents of the First Information Report and advances his argument on the issue regarding the maintainability of the First Information Report.

Mr. Ghosh, learned advocate appearing on behalf of the private opposite party submits that although the order relating to maintenance under Section 125 of the Code of Criminal Procedure was passed, yet the husband/petitioner no.1 used to avoid any payment and lastly on 11th April, 2022, a sum of Rs.60,000/- has been transferred to the account of the private opposite party which is a sum due for 15 months.

Mr. Imam, learned advocate appearing on behalf of the State submits that till date the streedhan articles could not be recovered in spite of due diligence being exercised by the Investigating Agency as the relevant addresses referred to or is available with the police authorities were checked up and none of the petitioners could be found in the said address.

Be that as it may, the investigation of the case is in progress. So far as the merits of the case are concerned, the Investigating Authority would come to its logical conclusion in respect of the allegations made. The provisions under Section 498A were incorporated by the legislature with a social objective, however, having regard to the fact that there must be a balance between the allegations made and the rigours which may be suffered in cases of this nature, wherein none of the offences alleged are punishable more than seven years, I am of the view that warrant of arrest so issued on 19th March,

2020 by the learned Additional Chief Judicial Magistrate, Kharagpur, Paschim Medinipur against the petitioner no. 1 be stayed for a period of three weeks from date, within which the petitioner no.1 should appear before the Investigating Officer and co-operate with the investigation.

The petitioners including the petitioner no.1 in the meantime will be at liberty to exhaust other remedies, if so advised.

The report in respect of the appearance as well as cooperation of the petitioner no. 1 should be furnished before the learned Additional Chief Judicial Magistrate, Kharagpur. The Police Authorities would be at liberty to exercise the options available in law after the period of three weeks is over.

With the aforesaid observations, the present revisional application being CRR 1387 of 2020 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]

