

07.01.2022
SI No. 18
Srimanta
Ct. No. 02

**Calcutta High Court
In the Circuit Bench at Jalpaiguri
Appellate Jurisdiction**

CRR 73 of 2021

In Re: **Tapan Das**

... .. Petitioner.

Mr. Anirban Banerjee, Adv.,

... for the Petitioner.

This is an application under Section 482 of the Code of Criminal Procedure praying for quashing of the proceedings of Jalpaiguri Women Police Station Case No. 85/2016 dated 12th June, 2016 under Section 498A of the Indian Penal Code, pending before the Court of the learned Judicial Magistrate, 2nd Court at Jalpaiguri.

It is submitted by the learned advocate for the petitioner that police submitted a charge-sheet against the petitioner under Section 498A of the Indian Penal Code. The case is transferred to the 2nd Court of the Learned Judicial Magistrate, Jalpaiguri for disposal. Summons was issued to the *de facto* complainant and other witnesses on behalf of the *de facto* complainant/opposite party but they did not turn up in spite of receipt of the summons. In the meantime, the petitioner got an *ex parte* decree for divorce from the Court of the learned District Judge, Jalpaiguri.

The conduct of the opposite party no. 2 clearly shows that she is not willing to proceed with the trial of the case of 498A of

the Indian Penal Code. Therefore, the proceeding is required to be quashed.

The petitioner has not filed the certified copies of the order-sheet of the Trial Court wherefrom this Court would have understood whether summons was received by the *de facto* complainant or not.

It is true that the case is pending for a long time. It is the allegation of the petitioner that in spite of receipt of summons the opposite party no. 2 and her witnesses do not appear before this Court.

Therefore, the instant criminal revision is **disposed of** directing the learned Judicial Magistrate, 2nd Court at Jalpaiguri to serve summons upon the witnesses as per the charge-sheet and dispose of the case within three months from the date of communication of this order, if required on virtual mode.

(Bibek Chaudhuri, J.)