

17.3.2023
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SB
Ct. No.236

CRR 263 of 2005
CRAN 2 of 2006

In the matter of : Naveen Bhargava & Ors.

Mr. B.K. Ray
Ms. Manisha Sharma ... for the State

This proceeding under Section 482 of the Cr.P.C. challenges the legality of the proceeding being G.R. No. 1722 of 2003 pending before the learned Chief Metropolitan Magistrate, Kolkata, arising out of Bowbazar P.S. Case No. 191 dated 03.7.2003 under Sections 498A/420/406/120B as well as the orders passed on 25.8.2004 and 29.11.2004.

None is appearing on behalf of the petitioners.

The matter is pending since, 2005, so I do not find any reason to adjourn the matter *suo moto*. Rather, I propose to dispose of the revisional application on merit based on materials available with the record.

Briefly stated, Naveen Bhargava, petitioner no. 1 and Anamika Bhargava, opposite party no. 2 herein got married on 08.12.2001 at Jaipur, Rajasthan and they started staying together as man and wife. Thereafter, petitioner no. 1 being the husband filed a suit seeking dissolution of marriage under Section 13 of the Hindu Marriage Act which was registered as C.M. No. 7/2003 dated 07.01.2003. The opposite party no. 2 being the wife entered into appearance and thereafter filed an application before the Hon'ble Apex Court under Section 25 of the Cr.P.C. and Hon'ble

Apex Court was pleased to transfer the suit before the Family Court at Kolkata on 27.12.2004. The said matrimonial suit was disposed of as not pressed. In the meantime, on 05.4.2003, the opposite party no. 2 filed a petition of complaint before the learned Chief Metropolitan Magistrate, Kolkata alleging inter alia that after few days of her marriage she was subjected to torture by her husband at Pali, Rajasthan where they stayed together as man and wife. The said petition of complaint was forwarded to the jurisdictional police station under Section 156(3) of Cr.P.C. and Hare Street P.S. Case No. 237 was registered. Subsequently the case was transferred to the jurisdiction of Bowbazar P.S. where the opposite party no. 2 was residing. Police took up investigation and submitted a report stating inter alia no evidence or any part thereof could be collected to establish the fact that an offence of cruelty was committed on the complainant in Kolkata. The matter was then forwarded to the Court of Learned Chief Judicial Magistrate, Jaipur, Rajasthan by the order of the learned Chief Judicial Magistrate on 29.10.2003. Learned Chief Judicial Magistrate, Rajasthan after considering the content of the complainant as laid down precisely in paragraphs 17 and 18 forwarded the case docket along with all relevant papers to the learned Chief Judicial Magistrate, Pali, Rajasthan where the couple was staying as man and wife. After investigation the jurisdictional police submitted a report indicating that no untoward incident took place at Pali where the opposite party no. 2 being the de facto complainant resided with her husband. Learned Chief Judicial Magistrate, Pali, Rajasthan by an order dated 27.7.2004

sent back the papers to the learned Chief Metropolitan Magistrate, Kolkata along with the report. Even thereafter learned Chief Metropolitan Magistrate, Kolkata entrusted the inspector R. Chakraborty to cause further investigation and warrant of arrest was issued upon the petitioner / husband.

From the attending facts of the case, it further transpires that the opposite party no. 2 filed a petition seeking maintenance and the petitioner had been complying with the order of the learned Chief Judicial Magistrate, Kolkata.

Under such facts and circumstances, when investigating agency both in Kolkata and Pali, Rajasthan did not find any evidence against the petitioners to implicate them for committing any offence within the meaning of Indian Penal Code, the subsequent order of the learned Chief Metropolitan Magistrate, Kolkata, appears to be nothing but manifestation of abuse of process of law and for that reason the proceeding being G.R. No. 1722 of 2003 pending before the learned Chief Metropolitan Magistrate, Kolkata, arising out of Bowbazar P.S. Case No. 191 dated 03.7.2003 should be quashed which I accordingly do.

The revisional application is disposed of along with application being CRAN 2 of 2006.

Interim order, if any, stands vacated.

Let a copy of the order be sent to the learned Trial Court for information and necessary action.

(Siddhartha Roy Chowdhury, J.)