

63 21.08.
Ct 2023
237
rup

CRR 427 of 2018

**Sri Ramchandra Bar & Ors.
Versus
State of West Bengal & Anr.**

Mr. Prasanta Kumar Banerjee,
Ms. Indrani Nandi ... for the petitioners.

Mr. Saswata Gopal Mukherjee,
Mr. Binoy Panda,
Mr. Aniket Mitra. ... for the State.

This revisional application has been filed assailing the proceeding in connection with Jamalpur Police Station Case NO. 7 of 2015 dated 03.01.2015 under Section 323/498A/449/406/354(B)/34 of the Indian Penal Code in connection with G.R. Case No. 55 of 2015 pending before learned Judicial Magistrate, 6th Court, Burdwan.

The opposite party no.2 put the law in motion by filing an application under Section 156 (3) against the all petitioners, alleging, inter alia, that after marriage he used to stay with her husband in her in laws house. After death of her husband she was subjected to torture physically and mentally by her in laws i.e. petitioners in this case and they were forcibly transferring the joint property and there was dispute regarding transfer of the joint property against her will.

It was further alleged that on 2.12.2013 her brother in law, Mahadeb Bar/petitioner entered into her room and tried to outrage her modesty and she raised alarm.

On receipt of the written complaint Jamalpur Police Station Case NO. 7 of 2015 dated 03.01.2015 under Section 323/498A/449/406/354(B)/34 of the Indian Penal Code was started. After investigation chargesheet was submitted against all the petitioners.

Mr. Prasanta Kumar Banerjee, learned advocate appearing on behalf of the petitioners has submitted that there is no materials to attract any provision of the Indian Penal Code to initiate proceeding in connection with this case.

Mr. Binoy Panda, learned advocate appearing on behalf of the State has referred the Case Diary, containing materials collected during investigation.

I have carefully gone through the written complaint under Section 156(3) of the Code of Criminal Procedure and statement of witnesses recorded under Section 161 of the Code of Criminal Procedure. I find that there was a general allegation of torture and the dispute arose between the parties regarding transfer of joint property, which is a purely civil in nature. More so, the offence lodged under Section 354 (B) of the Indian Penal Code has not been corroborated by any one of the witnesses recorded under Section 161 of the Code of Criminal Procedure. Neighbors examined under Section 161 of the Code of Criminal Procedure have stated in their respective statement that all the petitioners including the mother-in-law and sister-in-law were in the room on the

alleged date of incident i.e. on 2.12.2013 and they were found to drag the de-facto complainant.

Considering all materials including the statement recorded under Section 161 of the Code of Criminal Procedure, I find that there is no incriminating material to justify the proceeding in this case and therefore continuation of this proceeding would result in an abuse of process of Court.

Thus to secure of justice proceeding in connection Jamalpur Police Station Case NO. 7 of 2015 dated 03.01.2015 under Section 323/ 498A/ 449/406/ 354(B)/ 34 of the Indian Penal Code stands quashed.

The petitioners, if on bail shall be discharged from their respective bail bond.

With the observation, the revisional application stands disposed of.

Pending application, if any, also stands disposed of.

Case Diary be returned.

Urgent photostat certified copy of the order, if applied for, be given to the parties on usual undertakings.

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

(Bibhas Ranjan De, J.)