

13.02.2023

Item No.12
Ct.No.34
dc.

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION**

C.R.R. 446 of 2021

**Shyama Prasad Neogi & Ors.
versus
State of West Bengal & Anr.**

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

Mr. Prabir Kumar Mitra,
Ms. Subhanwita Ghosh,
Mr. Pinak Kumar Mitra,
Ms. A. Shahab ... For the Petitioners.

Mr. S. G. Mukherjee, Ld. P.P.,
Mr. Imran Ali,
Ms. Debjani Sahu ... For the State.

Mr. Debabrata Acharyya,
Mr. Sital Samanta ... For the Opposite Party No.2.

Mr. Mitra, learned advocate appearing for the petitioners submits that the petitioners have been falsely implicated in the instant case without any rhyme or reason and it was a matrimonial discord where facts have been blown out of proportion to incorporate grievous sections under the Indian Penal Code. Learned advocate adds that there is nothing against the mother-in-law which compels her to face the ordeal of a criminal trial. Additionally, it has been submitted that the facts narrated are improbable for FIR to be lodged far less that a charge-sheet be filed before a court of law.

Mr. Acharyya, learned advocate appearing for the opposite party no.2 opposes the contentions and draws the attention of the Court to the relevant part of the FIR, charge-sheet as also the references in respect of the materials

appearing under Serial No. 11 of the report under Section 173 of the Code of Criminal Procedure.

Ms. Sahu, learned advocate appearing for the State submits a report. Let the said report dated 09.02.2023 be kept on record.

The report reflects that the case has been committed to the court of sessions. Having considered the stage of the case, I am of the opinion that the petitioners would be at liberty to canvass the points addressed in the present revisional application at the stage of consideration of charges. The petitioners would be at liberty to take out an application under Section 227 of the Code of Criminal Procedure, if so advised. The learned trial court would take into account the materials appearing distinctly against each of the accused persons and thereafter the trial court will order in accordance with law.

Mr. Mitra, learned advocate for the petitioner also prays that the petitioner no.2, Smt. Dipa Neogi, mother-in-law of the private opposite party no.2, may be allowed to be represented through her learned lawyer. In case, such an application is taken out either under Section 205 of the Code of Criminal Procedure or under Section 317 of the Code of Criminal Procedure, learned trial court would not unnecessarily insist on physical appearance of the petitioner no.2 on each and every date.

With the aforesaid observations, the revisional application being CRR 446 of 2021 is disposed of.

All pending connected applications, if any, are consequently disposed of.

All parties shall act on the server copy of this order duly downloaded from the official *website* of this Court.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Tirthankar Ghosh, J.)