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C.R.R.473 of 2021

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

Nasima Firdouse
Versus
Mohiuddin Ahmed

Mr. Swapan Kumar Mallick,
Mr. Kazi M. Rahman,
Ms. Sudeshna Das.
...for the petitioner.

Mr. Younush Mondal.
...for the opposite party.

Mr. Swapan Kumar Mallick, learned advocate appearing for the petitioner submits that the present petitioner is the wife of the complainant/opposite party. The petitioner initiated a case under Section 125 of the Code of Criminal Procedure being A.C.M.823 of 2015 as also a case under Sections 498A/406 of the Indian Penal Code.

Learned advocate submits that the husband is a railway employee and is much more acquainted with the nature of the court proceedings and have utilised the same in a mala fide manner in order to harass the wife so that she is unable to pursue the remedies prayed for in the proceedings relating to Section 125 of the Code of Criminal Procedure and also trial in respect of the proceedings under Section 498A of the Indian Penal Code.

Learned advocate appearing for the private opposite party submits that the present case was initiated by complying the

necessary requirements of law and the learned court after prima facie accepting the allegations was pleased to take cognizance of the offence and subsequently issued process so far as the present petitioner is concerned.

I have taken into account the submissions made by the learned advocate for the petitioner as well as the learned advocate for the private opposite party and the fact that the present petitioner is not receiving any farthing towards amount of maintenance awarded by the learned Magistrate assumes importance in the instant case as the present criminal case has been instituted by the husband as a ploy for preventing the petitioner to pursue her remedies under the law particularly the maintenance case.

Considering the series of events of the instant case, I am of the view that the petitioner has been able to satisfy the court that Clause VII of paragraph 102 of **State of Haryana Vs. Bhajanlal** reported in **1992 Supp.(1) SC 335: 1992 SCC (Cri)426** has been satisfied and the petitioner has been implicated in connection with the instant case because of private and personal grudge and for wrecking vengeance upon her.

Considering the totality of the circumstances, I am inclined to quash all further proceedings arising out of A.C. Case No.4396 of 2019 under Sections 427/447/323/324/379 /504/506 /34 of the Indian Penal Code pending before the learned Judicial Magistrate, 7th Court, Alipore.

Accordingly, CRR 473 of 2021 is allowed.

Pending application, if any, is consequently dismissed.

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 of all requisite formalities.

(Tirthankar Ghosh, J.)