

IN THE HIGH COURT AT CALCUTTA
(Criminal Revisional Jurisdiction)
Appellate Side

Present:

Justice Bibhas Ranjan De

C.R.R. 867 of 2023

(assigned)

Moumita Rabidas

Vs.

The State of West Bengal & Anr.

For the Petitioners :Mr. Anjan Bhattacharya, Adv.
Ms. Anita Shaw, Adv.

For the State :Mrs. Faria Hossain, Adv.
Mr. Anand Keshari, Adv.

For the opposite party no. 2 : Mr. Shounak Mukhopadhyay, Adv.
Ms. Subarnarekha Mishra, Adv.

Heard on :16.11.2023, & 07.12.2023

Judgment on :19th December, 2023

Bibhas Ranjan De, J.

1. The application under section 482 has been filed with a prayer for quashing the charge sheet being no. 159/2022 dated 21.03.2022 under Section 498A/34 of the Indian Penal Code (for short IPC) read with section 3/4 of the Dowry Prohibition Act (DP Act) in connection with Gangarampur Police Station Case no. 132 of 2022 dated 09.03.2022.
2. Initially, law was put into motion by the opposite party no. 2 by submitting a written complaint addressed to inspector-in-charge, Gangarampur Police Station, District Dakshin Dinajpur alleging, *inter alia*, that she espoused one Nandan Rabi Das son of Nagendranath Rabi Das on 13.03.2013 according to Hindu Rights and Customs. At the time of marriage her father could not give any gifts. However, she started residing in her in-laws house. After few days she was subjected to physical and mental torture by her in-laws including the petitioner of this case on demand of dowry. Even she was assaulted on the pretext of silly mistake. After about a year of marriage she gave birth a child. Even she was tried to commit suicide due to inhuman torture after delivery of child. In the meantime, her father in-law constructed a new pucca

house at Mirtazpur where her mother in-law and petitioner started residing and at times they used to visit the native place at Uttar Bajrapukur, District Dakshin Dinajpur and would misbehave with her. Thereafter, her in-laws started demanding Rs. 5,00,000/- and for that reason she was forced to take loan to satisfy the demand. But, unfortunately they again started further demand of Rs. 5,00,000/-. This time she refused to do so. On 27.02.2022 she was assaulted by her husband and forcibly and left her to her father's house.

- 3.** On receipt of that complaint on 09.03.2022 at about 22.15 hours Gangarampur Police Station Case no. 132/22 dated 09.03.2022 was started under section 498A/34 IPC read with section 3/ 4 of the D.P. Act.
- 4.** Ld. Counsel, Mr. Anjan Bhattacharya, appearing on behalf of the petitioner strenuously contended that the petitioner/sister in law of the opposite party no. 2 did not reside in the house where opposite party no. 2 would reside. In support of his contention he relied on the written complaint itself as well as the documents like residential certificate, Aadhaar Card etc. Mr. Bhattacharya also submitted that the allegation made in the complaint particularly against the petitioner did not attract the cruelty within the meaning of Section 498A IPC.

Mr. Bhattacharya further referred to the documents filed with the application showing selection of the petitioner for different posts of the Government.

5. In support of his contention Mr. Bhattacharya relied on a case of ***Preeti Gupta and another Vs. State of Jharkhand and another*** reported in ***(2010) 7 Supreme Court Cases 667***.

6. Per contra, Ld. Counsel, Mr. Shounak Mukhopadhyay, appearing on behalf of the opposite party no. 2 has contended that the instant criminal revision was filed when the case was fixed for evidence. No such application was ever filed either at the time of registration of FIR or at the time when charge sheet was submitted. Therefore, the application filed with deliberate intention is liable to be dismissed.

7. Ld. Counsel, Mrs. Faria Hossain, Appearing on behalf state has touched upon the material collected in course of investigation leading to submission of charge sheet against all accused including the petitioner.

Analysis:-

8. Before all else, I would like to go through, over again, the complaint lodged by the petitioner before inspector-in-charge, Gangarampur Police Station. In the written complaint specific allegation of the petitioner was that she was subjected to

torture on demand of money and she somehow took loan from the different bank and handed over the money to **her husband** and **other accused of this case including the petitioner.** Thereafter, on 27.02.2021 she expressed her incapability to satisfy further demand and her husband assaulted her mercilessly and from then on petitioner parted ways and started residing with her parents.

9. On further scrutiny of the written complaint, what I explore that her parents -in-law and the petitioner shifted their residence at Mirtazpur and they were implicated by making allegation that whenever they would come to Gopalur, Gangarampur she was misbehaved and torture.

10. On careful scrutiny of the entire written complaint allegation of torture by the sister-in-law (petitioner herein) seems to have been only during her visit and stated to be at times. Further, the opposite party no. 2 made a sweeping allegation against her sister in law (petitioner herein) that she also tortured her mentally and physically for dowry. No explicit instance was exemplified by the opposite party no. 2 as to how petitioner subjected her to such torture from a distance place.

11. In ***pretty Gupta*** (supra) Hon'ble Apex Court held in paragraphs 35 here under:-

“ 33. The learned members of the Bar have enormous social responsibility and obligation to ensure that the social fibre of family life is not ruined or demolished. They must ensure that exaggerated versions of small incidents should not be reflected in the criminal complaints. Majority of the complaints are filed either on their advice or with their concurrence. The learned members of the Bar who belong to a noble profession must maintain its noble traditions and should treat every complaint under Section 498-A as a basic human problem and must make serious endeavour to help the parties in arriving at an amicable resolution of that human problem. They must discharge their duties to the best of their abilities to ensure that social fibre, peace and tranquillity of the society remains intact. The members of the Bar should also ensure that one complaint should not lead to multiple cases.”

12. The exposition of law relating to exercise of inherent power under Section 482 CrPC Hon'ble Apex Court channelized the guidelines with clarity in the case of ***State of Haryana and other Vs Bhajanlal*** and others reported in ***1992 Supp (1) SCC 335***. I find it appropriate stage to

reproduce broad categories of cases to exercise the inherent power under Section 482 CrPC, as follows:-

*“ **102.** In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.*

- (1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.*
- (2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.*
- (3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.*
- (4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable*

offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

- (5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.*
- (6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.*
- (7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”*

13. The instant case, in my opinion, also false squarely in category 102 (3), where the allegation made in the First Information Report , even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the petitioner/accused. Accordingly, permitting the criminal proceeding to gone against the petitioner would, therefore, result in not only abuse of process of court but also patent in justice.

- 14.** Therefore, it is fit case for this Court to exercise its inherent power under Section 482 CrPC and quashed the proceeding against the petitioner/accused.
- 15.** Thus, the revision application being no. CRR 867 of 2023 stands succeeds. The proceeding corresponding to charge sheet being no. 159 of 2022 dated 21.3.2022 under Section 498A/34 of the IPC read with section 3/4 Dowry Prohibition Act, in connection with Ganarampur Police Station 132/22 dated 09.03.2022 pending before the Ld. Additional Chief Judicial Magistrate, Buniyadpur, Dakshin Dinajpur, Stands quashed against the petitioner (Moumita Rabidas) only.
- 16.** Interim order, if there be any, stands vacated.
- 17.** Pending applications, if there be any, stand disposed of accordingly.
- 18.** All parties to this revisional application shall act on the server copy of this order downloaded from the official website of this Court.
- 19.** Urgent Photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.