

07.02.2023

Court No.236
Item No. 27

CRR 987 of 2011

D.Hira

**Kanu Dey
Vs.
The State of West Bengal & Anr.**

Mr. Narayan Prasad Agarwala,
Mr. Pratick Bose.

... for the State

None is appearing on behalf of the petitioner.

This criminal revisional application is pending since 2011. I do not find any reason to adjourn this matter *suo motu*. Instead, I am inclined to dispose of the revisional application on merit based on materials made available with the record.

Briefly stated Srimati Hilarani Dey, opposite party no. 2 filed an application before the learned Sub-Division Judicial Magistrate, Kalyani, Nadia alleging, *inter alia*, that her husband Sri Kanu Dey treated her with cruelty. She was physically and mentally tortured by her husband who decided to marry for the second time. She did not have any means to maintain herself. She took out an application under Section 125 of the Code of Criminal Procedure for maintenance. However, during the Execution proceeding the couple came to a settlement and they resumed their conjugal relationship. After few days, again her husband started inflicting torture upon her while she was carrying. She was then admitted to Kalyani hospital and without her consent her husband got her womb washed. The opposite party, however, was left with no other option but to stay with her husband. On 28th October, 1987, she was again tortured. Ultimately, her husband and his cousins conspired to give her electric shock. She lost her sense by such electric shock and was compelled to leave her matrimonial home. The petition of complaint was forwarded to the jurisdictional police station under Section 156 (3) of the Code of Criminal Procedure and Kalyani Police Station Case No. 2 of 1988 dated 4th January, 1988 was registered. Police after investigation submitted charge-sheet but till 6th September, 2010 provisions of

Section 207 of the Code of Criminal Procedure could not be complied with. In the meantime, the informant Hilarani Dey and her husband Kanu Dey decided to dissolve their marital knot and for that, filed an application under Section 13 (B) of the Hindu Marriage Act, 1955 before the Competent Court of Law which was registered as Matrimonial Suit No. 163 of 1998. On 28th April, 1999 the marriage between the parties got dissolved by a decree of divorce on mutual consent. It was found from the copy of the order-sheet that the parties to the said procedure did not reserve their right to proceed with any other civil or criminal proceedings pending between them.

Under such circumstances, in my humble opinion, the criminal proceedings pending being G.R. Case No. 14 of 1988 is but a manifestation of abuse of process of law. In order to avert the same and to secure ends of justice, I am inclined to invoke the provisions of Section 482 of the Code of Criminal Procedure to quash the proceedings being G.R. Case No. 14 of 1988 arising out of Kalyani Police Station Case No. 2 of 1988 dated 4th January, 1988 under Section 498A/120 B of the Indian Penal Code.

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

The revision being CRR No. 987 of 2011 is disposed of.

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

Urgent certified copy of this order, if applied for, be supplied upon compliance of usual formalities.

(Siddhartha Roy Chowdhury, J.)