

17-02-2023
Subha
Item no. 02
Ct no.34

IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction
C.R.R 917 of 2021

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

Sri Subhasish Roy & Ors.
-versus-
The State of West Bengal & Anr.

Mr. Debasais Kar
Mr. Arka Tilak Bhadra
...for the petitioners.

Mr. Purbangshu Chandra Mitra
Ms. Piyali Mitra
Mr. Ashik Hossain
Ms. S. Roy
.....for the O. P. No. 2.

Mr. Arijit Ganguly
Mr. Sanjib Kumar Dan
...for the State.

Mr. Arijit Ganguly, learned advocate appearing on behalf of the State submits a report enclosing a communication made by the de facto complainant to the Officer-in-Charge, New Barrackpore Police Station. Let the report of the ASI of Police, New Barrackpore Police Station, Barrackpore Police Commissionerate along with the communication submitted through the learned advocate for the State be kept with the record.

Mr. Kar, learned advocate appearing for the petitioners submits that the husband, parents-in-law and the uncle-in-law have been falsely implicated in connection with the case by the lady who was staying separately with her husband. The case was initiated at

the instance of the de facto complainant after a legal notice was served upon her and the same reflects her adamant attitude for refusing to continue with the matrimonial life. According to the learned advocate facts have been embellished for the purpose of applicability of Sections enforcement complained of and there are no truth attached to statements which compelled the police authorities to register the FIR, who investigated the case and thereafter filed chargesheet before the jurisdictional court. It has been submitted that on a cumulative appreciation of the materials appearing in the FIR and in the chargesheet, hardly there is any possibility of success in the present case and as such, the proceedings may be quashed so far as the present petitioners are concerned.

Mr. Ganguly, learned advocate appearing on behalf of the State has produced the case diary and draws the attention of this court to the statement of the witnesses as also the steps taken by the Investigating Officer to substantiate the allegations made in the FIR.

Learned advocate appearing on behalf of the opposite party no. 2 opposes the contentions advanced by the learned advocate appearing on behalf of the petitioners and submits that the lady was mercilessly assaulted which would be reflected from the FIR and the police authorities refused to comply with the provisions of Section 406 of the Indian Penal Code and hurriedly submitted chargesheet under Sections 498A/504/120B of the Indian Penal Code.

It has been submitted that the power of this court to interfere at this stage by invoking Section 482 of the Code of Criminal Procedure as has been settled by the Hon'ble Supreme Court is

required in the rarest of rare cases and the facts of the present case do not warrant such interference.

I have considered the submissions advanced by the learned advocates for the petitioners, State and the opposite party no. 2 and as it has been submitted that the statements under Section 207 of the Code of Criminal Procedure on which the prosecution proposes to rely to establish its case are yet to be served on the petitioners, I am of the opinion at this stage it would not be fit and proper to consider on the issues canvassed in the revisional application by the learned advocate appearing for the petitioners. Petitioners would be at liberty to agitate the points in the revisional application along with the additional points at the subsequent stage of Sections 239/240 of the Code of Criminal Procedure. If such an application is taken out, the learned Magistrate is directed to dispose of the same in accordance with law without being influenced by any observations made by this court.

With the aforesaid observations, the revisional application being CRR 917 of 2021 is disposed of.

Pending applications, if any, are consequently disposed of.

The Investigating Officer of the case is present as per the earlier direction of this court. His further appearance before this court is dispensed with. Case diary be returned to the learned advocate for the State.

All concerned parties are to act in terms of a copy of this order duly downloaded from the official website of this court.

[Tirthankar Ghosh, J]

