

22-02-2023
Subha
Item no. 14
Ct no.34

IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction

C.R.R 1429 of 2021

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

Sri Krishna Kumar & Ors.
-versus-
Smt. Rajni Lal

Mr. Tapas Kumar Ghosh
Mr. Tanmoy Chowdhury

...for the petitioners.

Mr. Ayan Bhattacharya
Ms. Sreyashee Biswas
Ms. Puja Goswami

...for the Opposite Party.

The revisional application was preferred challenging the Complaint Case No. 347 of 2014(T. R. No. 221 of 2014) under Sections 406/34 of the Indian Penal Code and Sections 3 and 4 of the Dowry Prohibition Act pending before the learned Judicial Magistrate, 2nd Court, Asansol, Paschim Bardhaman.

Mr. Ghosh, learned advocate appearing on behalf of the petitioners submits that the continuance of the complaint case before the Judicial Magistrate, 2nd Court, Asansol is without any jurisdiction in view of the fact that evidence has been deposed in other cases by the lady/complainant that the alleged facts relating to the offences, if at all, accepted to be true took place at Giridih and none of the offences complained of took place within the jurisdiction of the learned court at Paschim Bardhaman.

Attention of this court has been drawn to paragraph 1 of the complaint wherein the complainant has averred that her marriage was solemnized on 29.11.2008 as per Hindu Rites and Customs and at her parental place at Barabani, Station Para, Post Office and Police Station – Barabani, Paschim Bardhaman.

Considering the contentions specifically taken up in the complaint, so far as the point of jurisdiction is concerned, the same becomes a question of fact, which can only be elucidated by way of cross-examination and cannot be summarily decided by this court.

Mr. Ghosh, learned advocate for the petitioners takes out the issue that the accused persons including the petitioners are all residents of Giridih.

The learned trial court is directed that in case an application under Section 205 of the Code of Criminal Procedure is filed by the accused persons after adhering to the conditions specified under the said Section and in the judgement of the Hon'ble Apex Court in the case of *Puneet Dalmia –vs- C.B.I* reported in (2020) 12 SCC 695, the learned trial court would allow the accused persons including the petitioners to be represented through their learned lawyers. The learned trial court would on a particular date, if required, insist on the personal appearance of the accused petitioners.

The case was initiated in the year 2014 and it has been informed that the evidence before charge is yet to commence. Accordingly, the learned trial court is directed to fix one date in a month so that the trial of the case proceeds.

Needless to state that in case the lawyer representing the

accused including the petitioners are not present at the time of trial so fixed by the learned Magistrate, the learned trial court would in accordance with law and the principles set by the Hon'ble Supreme Court proceed for issuance of bailable warrant and subsequent harsher process of law.

With the aforesaid observations, the present revisional application being CRR 1429 of 2021 is disposed of.

Pending applications, if any, are consequently disposed of.

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]