

19.10.2023
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CRR 1590 of 2008
With
CRR 2690 of 2009

In the matter of : Dipangsu Roy.

.... petitioner.

In the matter of : Bandana Biswas

... petitioner.

Mr. Dipanjan Dutt
Mr. Surojit Saha
Ms. Priyanka Sarkar

... for the petitioner in both the cases.

Mr. Narayan Prasad Agarwala
Mr. Pratick Bose

.... for the State in CRR 2690 of 2009.

Mr. Sabyasachi Chatterjee
Mr. Sandipan Das

.... for the opposite party No.2

Mr. Avishek Sinha

... for the State in CRR 1590 of 2008

In Re: CRR 1590 of 2008

The instant revisional application has been filed for quashing of the charge-sheet being No. 4/2007 dated 29th April, 2007 in connection with G.R. Case No. 84/07 pending before the learned Judicial Magistrate, 3rd Court at Asansol, District Burdwan (Presently Paschim Burdwan) arising out of Chittaranjan Police Station Case No. 2/07 dated 17th January, 2007 under Section 498A/34 of the Indian Penal Code and Section 4 of the Dowry Prohibition Act.

The opposite party No. 2 being the wife of the brother of the petitioner had lodged complaint accusing her husband along with his mother and other married sisters to have tortured her on the pretext of providing inferior gold ornaments and other articles at the time of her marriage which demeaned

the father of the opposite party No. 2 and herself socially. A goldsmith was engaged to assess the veracity of the ornaments and other articles given at the time of marriage. A further sum of Rs. one lakh was demanded to uphold the prestige of the family of the accused persons, as compensation at the insistence of the accused No. 2,4,5 and 6 in the presence of accused Nos. 1 and 7 named in the FIR. The opposite party No. 2 was assaulted by the accused No. 2 and 4 and demanded the aforesaid amount to be paid by the father of the opposite party No.2. The accused No. 1,3 and 4 termed the opposite party No. 2 to be the “daughter of a beggar” and the accused No. 2, 5 and 6 instigated the opposite party No. 2 to commit suicide. The torture as narrated in the complaint continued for further payment of Rs. 50,000/- in the month of December, 2005 and on such fulfillment the opposite party No. 2 was permitted entrance into the matrimonial house. After a lapse of one and half months the physical and mental torture still continued to subsist. Consequently, the opposite party No. 2 had to be treated by a doctor from 21st February, 2006 to 24th February, 2006. The intervention of the family members failed to resolve the matrimonial dispute unless the claim of further sum of Rs. one lakh was fulfilled which compelled the opposite party No. 2 to file a complaint petition under Section 156(3) on 11th December, 2007.

The precise contention of the opposite party No.2 to have experienced physical molestation and mental torture inflicted by the present petitioner did not transpire from the averments in the complaint as to the specific role played by her, neither there is any reflection to that effect on the case diary. The

cause title of the revisional application stated the petitioner to be a resident of 4/D iii/A, Type Hospital Sector, Dalli – Rajhara, District – Durg, Chhatisgarh – 491228 and the opposite party No. 2 to be residing at street No. 20B, Quarter No. 7A, Post Chittaranjan, Dist. Burdwan. The present petitioner did not reside in the same mess with the opposite party No. 2. Pertinently the coordinate Bench of this Court dismissed CRR 3313 of 2013 whereby it was observed as follows:

“Thereafter, her matrimonial relations of the opposite party came for a settlement and on 15th July, the petitioner left. On 14.09.2013 petitioner took back her articles. If we go through the statement of this PW1 and the allegation which she has raised in her petition under Section 498A of the Indian her parents. This is evident from her statement. Considering the contradictory statements made in application under Section 125 Cr.P.C. and the case under Section 498A of the Indian Penal Code followed by another case under Section 403/406 of the Indian Penal Code, I am of the view that the concurrent finding of the learned court below should not be disturbed. At the same time, application under Section 482 of Cr.P.C, is disguise of ‘second revision’ is not permissible in the eye of law.”

The learned advocate for the opposite party No. 2 had submitted before this Court on 09.10.2023 that the issue in question had been amicably settled by and between the parties and they intended to file joint compromise application, in the presence of the opposite party No. 2 whose personal appearance was noted by the Court and thereafter dispensed with.

On 16.10.2023 the learned advocate for the opposite party No. 2 in the presence of the opposite party No. 2 submitted that the amicable settlement could not be accomplished owing to certain issues regarding fixed deposit accounts. The learned trial court record was called for which stated as follows:

“10.05.2023 Record is put up on the prayer.

One case Withdrawn Ptn. Filed by the De-facto Complaint today.

Heard. Considered.

Let it be kept with the record.

The instant case withdrawn ptn. Will be taken up on the date fixed in presence of defence side.

To date for Awaiting order from the Hon'ble High Court, Calcutta and Further order.

All accused must be present on the date fixed.

In presence of the defence side.”

The learned advocate for the petitioner submitted the contentions of the opposite party No. 2 from time to time are at variance and the fact of suppression before the Court with regard to the observations in CRR 3313 of 2013 against which a special leave petition was preferred before the Hon'ble Supreme Court and vide order dated 16.05.2018 the Hon'ble Supreme Court had dismissed the special leave petition stating “we find no merit in the Special Leave Petitions”.

There is a proclivity to involve the family members of the husband remotely or negligibly connected with the matrimonial disputes to drag them into inimical circumstances with the exclusive intention of harassment which creates an ignominy disastrous to their existence. This is a glaring example, wherein not a single sentence has been stated anywhere establishing the criminal act or intent of the petitioner to be indicted. To allow to continue with the trial will be an abuse of process of law.

Under the facts and circumstances, the instant revisional application is allowed.

The proceedings charge-sheet being No. 4/2007 dated 29th April, 2007 in connection with G.R. Case No. 84/07 pending before the learned Judicial Magistrate, 3rd Court at Asansol, District Burdwan (Presently Paschim Burdwan) arising out of Chittaranjan Police Station Case No. 2/07 dated 17th January, 2007 under Section 498A/34 of the Indian Penal Code and Section 4 of the Dowry Prohibition Act is quashed.

In Re: CRR 2690 of 2009

On the self-same ground the complaint case has been filed against the petitioner which cannot be sustained. In the event of the same being harrasive and coercive in nature to allow to continue with the trial will be an abuse of process of law.

The revisional application is allowed.

The proceedings being Complaint Case No. C-408 of 2008 pending before the Court of the learned Judicial Magistrate, 3rd Court, Asansol under Sections 403/406 of the Indian Penal Code is also quashed.

Accordingly, application if any stands disposed of.

Copy of the order be sent to the Department as well as learned trial court for compliance.

(Ananya Bandyopadhyay, J.)