

08.02.2023

Item No.23

Ct.No.34

dc.

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION**

C.R.R. 1528 of 2021

**Aslam Khan
versus
The State of West Bengal & Anr.**

In Re: An Application under Section 401 read with Section 482 of the Code of Criminal Procedure.

Sk. Toslim Ali,
Ms. Saba Parween ... For the Petitioner.

Mr. S. G. Mukherjee, Ld. P.P.,
Mr. Imran Ali,
Ms. Debjani Sahu ... For the State.

Report dated 08.02.2023 submitted by Ms. Debjani Sahu, learned advocate appearing for the State be kept on record.

In spite of efforts by the petitioner as well as by the police authorities, the opposite party no.2 viz. Nur Jahan Begum chose not to appear before this Court and as such, this Court after affording number of options, proceeds to hear the petitioner, State and refer to the case diary which has been placed by the State before this Court.

Learned advocate appearing for the petitioner submits that prior to institution of Burdwan Women Police Station Case No. 313 of 2020 dated 26.12.2020 under Sections 498A/363/34 of the Indian Penal Code, the opposite party no.2 viz. Nur Jahan Begum earlier also instituted a case under Sections 498A/34 of the Indian Penal Code being Panchla Police Station Case No. 276/2017 dated 08.09.2017. The said case related to physical and mental torture being

inflicted upon the said Nur Jahan Begum and she being thrown out of her matrimonial residence. Pursuant to the registration of the said FIR, charge-sheet was submitted before the jurisdictional court and the said proceeding is pending.

Learned advocate appearing for the petitioner submits that the complainant Nur Jahan Begum again instituted the present case in Burdwan Women Police Station Case No. 313 of 2020 dated 26.12.2020 under Sections 498A/363/34 of the Indian Penal Code and charge-sheet was filed under Sections 498A/34 of the Indian Penal Code.

Having considered the fact that earlier case was instituted in the year 2017 and the present case was instituted with the allegation regarding her elder son being sold by the husband and torture being inflicted do not invite or attract the provisions of Section 498A of the Indian Penal Code. Although the present case does not satisfy the test of sameness, but having regard to the tenor of the allegations and the fact that the present case has been instituted to foist another criminal case upon the accused persons who happen to be the husband and the relations of the husband, I am of the opinion that further continuance of the present proceeding, which is by way of suppression and/or concealment of fact that prior proceeding being Panchla Police Station Case No. 276/2017 dated 08.09.2017 was initiated under Section 498A/34 of the Indian Penal Code, is

an abuse of the process of law and as such, is entitled to be quashed.

Accordingly, all further proceedings arising out of Burdwan Women Police Station Case No. 313 of 2020 dated 26.12.2020 and the charge-sheet filed therein under Sections 498A/34 of the Indian Penal Code are hereby quashed.

With the aforesaid observations, the revisional application being CRR 1528 of 2021 is disposed of.

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

All parties shall act on the server copy of this order duly downloaded from the official *website* of this Court.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Tirthankar Ghosh, J.)