

May 16, 2023
AD – 64
Ct. 34
SG

CRR 1702 of 2021

*In Re. An application under Section 482 read
With Section 401 of the Code of Criminal
Procedure, 1973.*

*Biswanath Ghosh
-versus-
The State of West Bengal and another*

Mr. Shibaji Kumar Das
Ms. Rupsa Sreemani
... for the petitioner.

Mr. Joydeep Roy
Ms. Sujata Das
... for the State.

The present revisional application has been preferred challenging the proceedings of Khardah Police Station Case No.457 of 2021 dated 02.08.2021 under Sections 341/323/354/379/506/34 IPC which is pending before the learned Additional Chief Judicial Magistrate, Barrackpore.

Mr. Roy, learned advocate for the State has submitted a report of the Officer-in-Charge of Khardah Police Station wherein it has been noticed that service upon the complainant/opposite party No.2 has been enclosed.

Learned advocate for the State has produced the case diary of Khardah Police Station Case No.457 of 2021 dated 02.08.2021 as also Khardah Police Station Case No.284 of 2021 dated 15.05.2021 under Sections 498A/406 IPC.

Mr. Shibaji Kumar Das, learned advocate for the petitioner submits that the present petitioner viz Biswanath

Ghosh happens to be the brother of Mithu Ghosh Karmakar, who initiated Khardah Police Station Case No. 284 of 2021 dated 15.05.2021 under Sections 498A/406 IPC. Pursuant to the torture inflicted upon her for demand of dowry and incapability of her parents and other family members to pay the huge demanded amount after solemnisation of the marriage.

It was pointed out that the mother-in-law of the said complainant viz Mithu Ghosh Karmakar initiated Khardah Police Station Case No.457/21 dated 02.08.2021 which was on the basis of an application under Section 156(3) of Cr.P.C. against Mithu Ghosh Karmakar and 6 others who are relations of her paternal home.

The allegations made therein that on or about 28.05.2021 at about 11.30 am the accused persons and local hooligans barged into the complainant's residence with stick and bamboo along with other deadly weapons and on protest the accused persons fled away. The complainant reported the matter to the local club and other respectable persons. Again on the same day the accused persons suddenly attacked the complainant and started assaulting with fists and blows and accused No.4 outraged the modesty and after hearing the hue and cry some local persons came forward, the accused persons fled away by snatching the complainant's gold chain. Soon after the incident the complainant duly reported at Rahara Police Station but no case was registered. The complainant also

reported to the Commissioner of Police, Barrackpore Police Commissionerate on 09.06.2021 but no action has been taken on behalf of the Commissionerate.

I have perused the contents of the application under Section 156(3) Cr.P.C. wherein it has been suppressed that the accused persons named in the said application are related to the complainant and there was an earlier case which was initiated by the accused viz Mithu Ghosh Karmakar in the application under Section 156(3) Cr.P.C.

I have also perused the affidavit which is enclosed along with the application under Section 156(3) Cr.P.C. The affidavit is lacking material particulars in respect of the allegations as the complainant therein has failed to take the onus regarding the allegations made, either the same being by way of knowledge or from any records. It has also been pointed out that the earlier letter which was sent to the Commissioner of Police was completely on a different set of facts which had nothing to do with the nature of allegations made in the application under Section 156(3) Cr.P.C. for which the FIR was registered and the investigation after being completed submitted the charge-sheet.

I have also considered the charge-sheet which has been filed in connection with Khardah Police Station Case No. 284/21 dated 15.05.2021 wherein it is reflected that the present petitioner viz Biswanath Ghosh happens to be witness No.2. The statement of the said witness reflects

that Biswanath Ghosh happens to be the brother of the complainant in Khardah Police Station Case No.284 of 2021 dated 15.05.2021.

On an assessment of the totality of the circumstances and the manner in which the present case being Khardah Police Station Case No.457 of 2021 has been initiated, I am of the opinion that the present case is attended with mala fides for satisfaction of personal grudge upon the daughter-in-law and her relations, who has initiated the case under Sections 498A/406 IPC.

Having regard to the same, I am of the view that further continuance of the proceedings would result in miscarriage of justice. Accordingly, all further proceedings relating to Khardah Police Station Case No.457 of 2021 dated 02.08.2021 (GR No. 6537 of 2021) under Sections 341/323/354/379/506/34 IPC pending before the Additional Chief Judicial Magistrate, Barrackpore are hereby quashed.

Accordingly, CRR 1702 of 2021 is disposed of.

Pending application, if any, is consequently disposed of.

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

(Tirthankar Ghosh, J.)

