

15.02.2023
S/L No.3
KS

C.R.R. 1720 of 2021
Nargis Parvin & Ors.
-Vs.-
The State of West Bengal & Anr.

Mr. Somopriyo Chowdhury
Md. Abdur Rakib
Mr. Biswajit Sarkar
Mr. Sujit Manna

..... For the Petitioners

Mr. Saswata Gopal Mukherjee
Mr. Imran Ali
Mrs. Manisha Sharma

.....For the State

Md. Shabir Ahmed
Mr. Dhiman Banerjee
Ms. S. Biswas

.....For the O.P.

The present revisional application has been preferred challenging the proceeding arising out of Baruipur Women Police Station Case No.126 of 2020 dated 06.12.2020 under Sections 448/ 323/ 427/ 504/ 354/ 307/ 506/ 34 of the Indian Penal Code (corresponding to G.R. Case No.6938 of 2020) which is pending before the learned A.C.J.M., Baruipur, South 24 Parganas.

Mr. Chowdhury, learned advocate appearing for the petitioners submitted that the present case is a counter-blast to Baruipur Women Police Station Case No.103/2020 dated 22.10.2020 which was registered at the instance of petitioner no.1 namely, Nargis Parvin under Sections 498A/ 307/ 406/ 506/ 34 of the Indian Penal Code. The said case was

initiated against the husband and the in-laws namely, Raju Sardar, Khurshida Bibi and Mamoni Mondal. According to the learned advocate appearing for the petitioners the present case was designed to wreck vengeance for the purpose of diluting the allegations set forth in the earlier case initiated by petitioner no.1 and for the purpose of applying pressure tactics in the mind of the petitioner no.1 and his relations. Learned advocate submits that the continuance of the instant case is abuse of the process of law and the same should be quashed.

Md. Shabir Ahmed, learned advocate appearing for the complainant/opposite party no.2 substantiated the allegations and supported the charge-sheet so submitted in connection with the present case being, Baruipur Women Police Station Case No.126 of 2020 dated 06.12.2020. Learned advocate contended that it is only in rarest of rare case the proceedings should be quashed and the present case do not fall within the periphery of the exceptions which have been pronounced by the Hon'ble Supreme Court. It was pointed out by the learned advocate that the injury report do support the factual circumstances and, as such, no interference is called for.

Mr. Imran Ali, learned advocate appears for the State and produces the Case Diary. He drew the attention of the Court to the statement of the witnesses as well as the injury report. Learned advocate submitted that as charge-sheet has been submitted the trial of the case should be taken to its logical conclusion.

Before proceeding any further the allegations made in the letter of complaint which was treated to be the First Information Report of Baruipur Women Police Station Case No.126/2020 is to be dealt with. The allegations made in the letter of complaint addressed to the Inspector in Charge, Baruipur Women Police Station that the marriage of the complainant's son was solemnized with Nargis Parvin on 20.10.2019 in accordance with Muslim Rites and Customs. After few months of her marriage she was found to be nagging, misbehaving and also tortured the husband and others including raising some illegal demands. On 09.12.2020 Nargis Parvin after locking her Almirah left along with her brother taking away all her belongings. The complainant's son mailed a legal notice which was received by her on 19.11.2020. The complainant and her husband are only staying at the residence as the son is employed at Midnapore. On 02.12.2020 at about 5:30 p.m. the accused/petitioners being aided and abetted by some hooligans trespassed in her house and started abusing with obscene gestures and filthy languages. The accused person smashed Colour TV, dressing table and ransacked her house which resulted in loss to the tune of Rs.50,000/-. They also assaulted her husband with fist and blows and kicked on her chest as a result of which she sustained chest pain injury. The accused petitioner nos.2 and 4 also outraged her modesty and they also attempted to murder her by pressing pillow on her mouth. They left the house after threatening them of murdering in case in future her son refused to divorce petitioner no.1. The complainant

thereafter was taken to Padmerhat Hospital at Jaynagar and was medically treated there. The doctor advised her for further tests and she is still under medical treatment. The complainant requested the police authorities to take steps against the accused person.

On the basis of the aforesaid allegations, the Investigating Authorities registered the criminal case and on conclusion of investigation submitted charge-sheet before the jurisdictional Court.

I have assessed the documents which have been enclosed along with the revisional application particularly the earlier case relating to Baruipur Woman Police Station Case No.103/2020 dated 22.10.2020. Having regard to the nature of the documents and the principles set out in the case of *Rajiv Thapar & Ors. Vs. Madan Lal (2013) 3 SCC 330*, I am of the opinion that the same can be relied upon in the instant case.

So far as the charge-sheet which has been submitted in Baruipur Women Police Station Case No.126/2020 is concerned, and on consideration of the Case Dairy, I do not find any seizure list relating to any broken households articles being seized. Further no witness from the locality was examined. It is only the relations who have been cited in the case. Thirdly, the nature of aggression and assault as complained of by the complainant is not reflected in the injury report as relied upon in the case diary, as the Doctor does not find any "scratch" or "bruise" on the person of Khurshida Bibi who is the complainant.

Taking into account the relationship between the parties which deteriorated pursuant to a matrimonial discord, I am of the opinion that

the present case is a counter-blast to the earlier case initiated by the petitioner no.1 under Sections 498A/ 307/406/506/34 of the Indian Penal Code. As such, all further proceedings arising out of Baruipur Women Police Station Case No.126/2020 dated 06.12.2020 including the charge-sheet filed therein before the learned A.C.J.M., Baruipur is hereby quashed.

Accordingly, C.R.R. 1720 of 2021 is hereby allowed.

Pending applications, if any, are consequently disposed of.

Case Diary be returned to the learned advocate appearing for the State.

All parties are directed to act on the server copy of this order downloaded from the official website of this Hon'ble Court.

(Tirthankar Ghosh, J.)