

23-02-2023
Subha
Item no. 16
Ct no.34

IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction

C.R.R 2083 of 2021

Anima Dey
-versus-
The State of West Bengal & Anr.

Mr. Palash Mukherjee

...for the petitioner.

Mr. Md. Anwar Hossain,
Ms. Ratna Ghosh

.....for the State.

The present revisional application has been preferred challenging the continuance of Sankrail Police Station Case No. 852 of 2021 dated 23.07.2021 wherein chargesheet was submitted under Sections 498A/506/34 of the Indian Penal Code.

The present petitioner before this court happens to be the mother-in-law of the complainant.

Learned advocate for the petitioner submits that earlier the complainant initiated a case at Indus Police Station being Indus P. S. Case No. 148 of 2020 dated 22.09.2020 under Section 498A of the Indian Penal Code and Sections 3 & 4 of the Dowry Prohibition Act wherein the Investigating Agency on conclusion of investigation submitted chargesheet under the same sections.

The present case was initiated on or about 23.07.2021 and the police authorities again submitted chargesheet under Sections 498A/506/34 of the Indian Penal Code.

It has been contended that the allegations in the chargesheet do qualify the test of sameness and is liable to be quashed.

Mr. Hossain, learned advocate appearing for the State produces the case diary of both Indus P.S. Case No. 148 of 2020 dated 22.09.2020 and Sankrail P. S. Case No. 852 of 2021 dated 23.07.2021.

I have also assessed the witnesses relied upon in the chargesheet and I find that in the present case the main thrust of contention is the subsequent torture inflicted upon the complainant, Paulomi Dey after she left her matrimonial home and was staying at her parental home. The allegations are against the husband as also against the in-laws in spite of the abuse and mental torture inflicted upon her.

In the present case, the applicability of Section 498A of the Indian Penal Code is debatable in view of the fact that earlier a case under Section 498A IPC was registered with Indus Police Station. However, so far as the other allegations are concerned, the same do make out a cognizable offence and as such it may not be permissible to quash the proceedings as a whole at this stage.

Learned advocate appearing for the petitioner contended that thrust of the allegations are against the husband and not against the mother-in-law.

I have considered the same and is of the view that the phrase used has been "in-laws". As such, the petitioner being mother-in-law would come within the ambit of the same.

Be that as it may, the petitioner would be at liberty to canvass

the points agitated in the present revisional application at the stage of Sections 239/240 of the Indian Penal Code, if so advised. The learned Magistrate would independently deal with the same without being influenced by any observations made by this court.

With the aforesaid observations, the revisional application being CRR 2083 of 2021 is disposed of.

Pending applications, if any, are consequently disposed of.

Interim order, if any, is hereby vacated.

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]