

13-07-2023
Item no.40
Subrata
Bhattacharyya

IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction

CRR No.2519 of 2023
Kuntal Panda & Ors.
-vs-
State of West Bengal & Anr.

Ms. Debisree Adhikary ...for the petitioners

Ms. Anusua Sinha ... for the State

Learned advocate representing the petitioner is directed to serve a copy of this revisional application upon learned advocate Ms Anusua Sinha, who ordinarily appears for the State. Her appointment may be regularised by the concerned authorities.

The petitioners' case is that an application under section 340 CrPC was filed before the learned CJM, Purulia. Learned CJM, Purulia was pleased to reject such application. Against such order an appeal was preferred wherein the learned Sessions Judge by his order dated March 27, 2023 dismissed it confirming the order of the learned CJM.

Learned advocate for the petitioners tried to draw attention of this court between the difference in contentions made in the FIR and that in the application under section 12 of the Protection of Women from Domestic Violence Act, 2005. According to the learned advocate, the respondent/wife made a statement on oath that her pregnancy was terminated on doctor's advice for "Rubella German measles" and that no incident of either physical or mental torture were levelled for such medical termination of her pregnancy which was made in the FIR being Purulia (M/Mofussil) Police Station FIR No.59 of 2020. She made a false statement that her pregnancy was medically terminated due to physical torture of the accused persons.

Learned advocate further submits that if in two different proceedings, contradictory false statements are made to compel the

court to pass an order in favour of the litigant, the application under section 340 CrPC is maintainable.

So far as the police case being Purulia (M/Mofussil) Police Station FIR No.59 of 2020 is concerned, it has been submitted that pursuant to the FIR being registered, charge-sheet has been submitted in connection with the concerned case and charges have been framed. So far as the issue relating to evidence is concerned or a statement before a court of law is concerned, the complainant is yet to make a statement before a court of law. An earlier statement was made before the concerned police station to which the police authority investigated and arrived at a finding.

A true or false statement is subject to test in course of evidence under application 340 CrPC, the application which has been preferred is premature. The petitioner would be able to make out a case only after evidence of the opposite party no.2 before the criminal court is over and the evidence surfaces regarding contradictory version in both the cases. The petitioner is granted liberty to take out such an application at the appropriate stage. No interference is called for in respect of the orders passed by the learned CJM and the learned Sessions Judge.

With the above observations, CRR No.2519 of 2023 stands disposed of.

Pending application, if any, stands also disposed of.

Parties are to act on the server copy of this order duly downloaded from the official website of this court.

Certified copy of this order, if applied for, shall be made available to the parties.

[Tirthankar Ghosh, J]

