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C.R.R.2330 of 2021

In Re: An application under Section 482 of the Code of Criminal Procedure, 1973;

Smt. Snehanita Nandi nee Ghosh nee Snehaneeta Nandy
Versus
The State of West Bengal and another

Mr. Kallol Mondal,
Mr. Shubhendu Bhattacharya,
Mr. Krishan Ray,
Mr. Souvik Das,
Mr. Anamitra Baneerjee.
...for the petitioner.

Mr. Bidyut Kumar Roy,
Ms. Sima Biswas.
...for the State.

Mr. Mit Guha Roy.
...for the opposite party no.2.

The present revisional application has been preferred challenging the proceedings of Bagnan Police Station Case No.223 dated 16.07.2020 under Section 406 of the Indian Penal Code pending before the learned Additional Chief Judicial Magistrate at Uluberia, Howrah.

The police authorities on conclusion of investigation in connection with the instant case submitted charge-sheet before the jurisdictional court.

Mr. Kallol Mondal, learned advocate appearing for the petitioner submits that another case was initiated at the instance of the same complainant/opposite party no.2, being Bagnan Police Station Case No.289 of 2018 dated 28.07.2028 under Sections

498A/323/506/34 of the Indian Penal Code which included the inmates of the matrimonial home. In the said case, the Investigating Authorities on conclusion of investigation submitted charge-sheet under Sections 498A/34 of the Indian Penal Code and Sections 3/4 of the Dowry Prohibition Act against four accused persons, namely, Koushik Ghosh, Manish Ghosh, Nihar Ghosh and Madhusudan Ghosh. Learned advocate submits that the present petitioner happens to be sister-in-law of the complainant being wife of Manish Ghosh, brother of the husband of the complainant.

Additionally, it has been submitted that the marriage of this petitioner was solemnised in the year 2017 only. Learned advocate further submits that there was no scope of entrustment of the stridhan articles as alleged to this particular petitioner or she being in conspiracy with rest of the inmates of the matrimonial home.

Mr. Mit Guha Roy, learned advocate appearing for the private opposite party no.2 submits that although charge-sheet was submitted in connection with Bagnan Police Station Case No.289 of 2018 dated 28.07.2018 but there were no recovery of the stridhan articles which laid to the complainant preferring a fresh application under Section 156(3) of the Code of Criminal Procedure. The said case was initiated for alleged offence under Section 406 of the Indian Penal Code with reference to the illegal withholding of the stridhan properties. Although the Investigating Agency concluded the investigation in the said case but again in Bagnan Police Station Case No.223 dated 16.07.2020 there has been no recovery of the

stridhan articles for which the Investigating Agency has assigned number of reasons.

Learned advocate appearing for the State has produced the case diary of both Bagnan Police Station Case No.289 of 2018 dated 28.07.2018 and Bagnan Police Station Case No.223 dated 16.07.2020.

Having regard to tenor of two cases, I am of the opinion that second case which has been filed by the complainant/opposite party no.2 is ignorance of law as the charge-sheet in the first case was filed not only under Sections 498A/34 of the Indian Penal Code but also under Sections 3/4 of the Dowry Prohibition Act. It was the duty of the learned Magistrate taking cognizance of the offence to find out as to what steps have been taken by the Investigating Agency for recovery of stridhan properties.

Having considered the provisions of test of sameness so far as the second case is concerned, I am of the opinion that the continuance of the second case is an abuse of the process of court. Accordingly, all further proceedings of Bagnan Police Station Case No.223 dated 16.07.2020 are quashed.

So far as the proceedings relating to Bagnan Police Station Case No.289 of 2018 dated 28.07.2018 is concerned, as already the Investigating Agency in the charge-sheet has alleged offence under Sections 3/4 of the Dowry Prohibition Act and there has been no recovery of any stridhan articles, I grant liberty to the complainant/opposite party no.2 to take out an application under Section 173(8) of the Code of Criminal Procedure.

Learned Magistrate will assess the records of Bagnan Police Station Case No.289 of 2018 dated 28.07.2018 and act in accordance with law for recovery of the stridhan articles. I also direct that if the police authorities feel that the assistance of the complainant/opposite party no.2 is required, in that case she should be informed in advance and necessary permissions for visiting outside the State may be obtained from the Superior Authority. All efforts must be taken by the police authorities in letter and spirit at least to show that there were efforts for recovery of the stridhan articles.

Superintendent of Police, Howrah would monitor the investigation of the case, if directions are passed by the learned ACJM, Uluberia.

Accordingly, CRR 2330 of 2021 is allowed.

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.

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

(Tirthankar Ghosh, J.)