

D/L19
17.02.2023
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C.R.R.2419 of 2021

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

Uday Kumar Mondal and others
Versus
The State of West Bengal and another

Mr. Uday Sankar Chattopadhyay,
Mr. Suman Sankar Chattopadhyay,
Ms. Trisha Rakshit,
Ms. Rajashree Tah,
Mr. Gourab Das.
...for the petitioners.

Mr. Chittapriya Ghosh,
Ms. Aiswajya Gupta.
...for the opposite party no.2.

Mr. Swapan Banerjee,
Mr. Suman De.
...for the State.

Affidavit-of-service so filed by the petitioners be kept with the record.

The revisional application was preferred challenging the proceedings arising out of Jamuria Police Station Case No.347 of 2019 dated 12.09.2019 (corresponding to G.R. Case No.2147 of 2019) under Sections 498A/406/323/34 of the Indian Penal Code and Section 3/4 of the Dowry Prohibition Act.

Mr. Chatterjee, learned advocate appearing for the petitioners submits that the present case has been unnecessarily foisted on number of relations to the husband which is without any foundation in law. According to the learned advocate, the factual

foundations laid down are full of misrepresentation of facts and if the application under Section 12 of the PWDV Act before the jurisdictional court is compared with that of the First Information Report under Section 156(3) of the Code of Criminal Procedure filed by the same complainant, the same would reflect contradictions thereby calling for interference by this Court. Learned advocate submits that this case has been initiated for harassing the petitioners and each and every matrimonial dispute may not give rise to invoking the provision of Section 498A of the Indian Penal Code and the police authorities have arrived at the conclusion by way of mechanical investigation without making any attempt for unearthing the truth.

Ms. Gupta, learned advocate appearing for the private opposite party no.2 opposes such contentions and submits that there are serious allegations against all the petitioners and nipping the case at this stage when the charge-sheet has only been submitted before the jurisdictional court would seriously prejudice the complainant.

Mr. De, learned advocate appearing for the State produces the case diary and draws the attention of this Court to the statement of different witnesses which included not only relations and neighbour of the complainant, but also the landlord where the couple used to stay.

Having considered the submissions advanced by the parties, I am of the opinion that the revisional application was preferred at a premature state. The petitioners are yet to receive the

copies which the prosecution intends to rely upon to prove its case. As such, the petitioners are granted liberty to take out an application under Sections 239/240 of the Code of Criminal Procedure before the jurisdictional court after receipt of the copies from the prosecution, if so advised. Learned Magistrate would consider the same in accordance with law without being influenced by any observations made by this Court while disposing of the present revisional application particularly in the background whether the criminal case would be sustainable against all the accused persons who have been named above in the charge-sheet.

With the aforesaid observations, CRR 2419 of 2021 disposed of.

Pending applications, if any, are 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.)