

D/L 21
17.02.2023
Bpg.

C.R.R. No. 2466 of 2021

In Re: An application under Sections 401 and 482 of the Code of Criminal Procedure, 1973;

Snehar Bibi @ Bibi Snehar and others
Versus
The State of West Bengal & Anr.

Mr. Kollol Mondal,
Mr. Samit Bhanja,
Mr. Krishan Ray,
Mr. Souvik Das,
Mr. Ayan Mondal.
...for the petitioners.

Mr. Arghya Kamal Das.
...for the opposite party no.2.

Mr. Madhusudan Sur,
Mr. Dipankar Paramanick.
...for the State.

The present revisional application has been preferred challenging Murarai Police Station 61 of 2018 dated 09.02.2018 which was registered for investigation under Sections 498A/307/313/34 of the Indian Penal Code and the investigating authorities after completion of investigation submitted charge-sheet under Sections 498A/313/34 of the Indian Penal Code.

The petitioner no.1, namely, Snehar Bibi @ Bibi Snehar happens to be the alleged mother-in-law of Parveen Bibi/opposite party no.2; petitioner no.2 namely, Abdul Manna Minya @ Abdul Mannan @ Abdul Mannan Mia happens to be the alleged father-in-law of the opposite party no.2; petitioner no.3 namely, Salma Bibi @

Salma Yeasmin, is the alleged wife of Fazle Karim Minya and the petitioner no.4 namely, Fazle Karim Minya is the alleged husband of the opposite party no.2.

The allegations made in the charge-sheet were to the effect that on the basis of an application under Section 156(3) of the Code of Criminal Procedure vide MP Case No.253 of 2017 the instant case was initiated. The opposite party no.2 contended that she got married to the petitioner no.4 in accordance with Muslim rites and customs. Subsequently, after marriage she was subjected to torture both physically and mentally and while she was pregnant she was kicked at the abdomen which caused miscarriage.

I have considered the statement of the witnesses appearing in the case diary as produced by Mr. Madhusudan Sur, learned advocate appearing for the State. The statements made therein so far as the assault is concerned and also towards allegations regarding abortion which is restricted to the petitioner no.4. In fact, if the application under Section 156(3) of the Criminal Procedure Code is compared with the statements of the witnesses, it reflects that the petitioner no.4 was reluctant to take the complainant to his residence. There are statements to the effect that the petitioner no.4 and the opposite party no.2 stayed in a rented accommodation. It is only when they went to the residence of the petitioner no.4, torture was inflicted upon the opposite party no.2 as alleged by the petitioner nos.1, 2 and 3 who drove out the opposite party no.2 from the residence.

Learned advocate appearing for the opposite party no.2

submits that there are serious injuries complained of.

I have perused the injury report. The injury as noted by the doctor reflects the history of the alleged offence to have been committed by the husband.

Having considered the totality of the circumstances particularly when the petitioner no.4 married another lady during the subsistence of another marriage and his relatives deterred the opposite party no.2 from staying under the same roof, I am of the opinion under this circumstance the provisions of Section 498A of the Indian Penal Code should not be attracted against those relatives. So far as the other allegations relating to Sections 307 and 313 of the Indian Penal Code are concerned, the same are restricted to petitioner no.4, i.e. alleged husband. Accordingly, the present proceedings before the learned trial court should continue so far as the petitioner no.4 namely, Fazle Karim Minya is concerned.

No case is made out so far as the petitioner nos.1, 2 and 3 are concerned. Accordingly, all further proceedings against the petitioner no.1, namely, Snehar Bibi @ Bibi Snehar, petitioner no.2, namely, Abdul Manna Minya @ Abdul Mannan @ Abdul Mannan Mia and the petitioner no.3, namely, Salma Bibi @ Salma Yeasmin in respect of Murarai Police Station Case No.61 of 2018 dated 09.02.2018 (corresponding to G.R. No.192 of 2018) is hereby quashed.

Thus, CRR 2466 of 2021 is partly allowed.

The proceedings would continue against Fazle Karim Minya.

Case diary be returned to Mr. Sur, learned advocate appearing for the State.

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.)