

06.09.2023

Item No.9
Ct.No.34
dc.

IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION

C.R.R. 3140 of 2022

In the matter of : **Sri Sanjay Kundu & Ors.** ... Petitioners.

Mr. Bidyut Kumar Halder,
Mr. Indranil Halder ... For the Petitioners.

Mr. Arijit Ganguly,
Mr. Kaushik Kundu ... For the State.

Pursuant to the earlier order dated 21.08.2023, case diary has been produced before this Court. I have perused the materials on record and I find that the charge-sheet was submitted under Sections 498A/323/506/34 of the Indian Penal Code and the same was against the three petitioners. The materials which are appearing in the case diary particularly, the statement under Section 161 of the Code of Criminal Procedure reflects that there was assault and scuffle at the place which has been referred to. However, the complainant left out her husband and the allegations relate only to physical and mental torture for the purposes of throwing out the complainant from her matrimonial home at the instance of the accused/petitioners. The husband being not an accused in the present case and the nature and character of the offence complained of are restricted regarding the occupancy or ownership of the matrimonial home, I am of the opinion that the provisions of Section 498A of the Indian Penal Code in the present case is not applicable. However, so far as the rest of the Sections are concerned for which the

charge-sheet has been submitted are applicable in the present case.

Accordingly, the learned trial court is directed to proceed with the trial of the case in respect of the other Sections which are appearing in the charge-sheet. The learned trial court would apply its mind in respect of the Sections which are to be incorporated for the purposes of framing of charge and thereafter fix dates for continuation of trial of the case.

With the aforesaid observations, the revisional application being CRR 3140 of 2022 is disposed of.

Pending connected application, if any, is consequently disposed of.

All concerned 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 with all requisite formalities.

(Tirthankar Ghosh, J.)