

27-03-2023
Subha
Item no. 09
Ct no.34

IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction

C.R.R 2622 of 2021

Sri Palash Halder
-versus-
The State of West Bengal & Ors.

Re : An application under Section 482 of the Code of Criminal Procedure.

Mr. Aniruddha Bhattacharyya
Mr. Indranuj Dutta
Mr. Asmanur Quail
Mr. Bikram Basak
Mr. Suvajit Ghosh Dastidar
Mr. Rahul Ghosal
...for the petitioner.

Mr. Saswata Gopal Mukherji, ld. PP,
Mr. Saryati Datta
....for the State.

The present revisional application was preferred challenging the proceedings arising out of Sonarpur Police Station Case No. 236 of 2016 dated 09.02.2016 under Sections 376/417/420 of the Indian Penal Code.

The Investigating Authorities on conclusion of investigation submitted the chargesheet being Chargesheet No. 1096 of 2016 dated 15.06.2016 before the jurisdictional court under the same sections. The Investigating Authorities apart from the complainant relied upon 7 witnesses namely, Mousumi Das, Suparna Das, Mili Biswas, Dr. Pradip Dutta, Dr. Sudeshna Ganguly including two police officers namely, Mousam Chakraborty and Kishor Kumar Das.

The present revisional application has been preferred at a stage when the case has already been committed to the Sessions Court and presently it is reflected that Sessions Case No. 36(6) of 2016 is the fresh number under which the case is appearing before the learned Sessions Court.

Mr. Saryati Datta, learned advocate appearing on behalf of the State has not only produced the original case diary but also pointed out that the case is at the stage of consideration of charges.

I have perused the statements of the witnesses as also the statement under Section 164 of the Code of Criminal Procedure. The fulcrum of the arguments of the petitioner is that nowhere in the application under Section 156(3) of the Code of Criminal Procedure or in the chargesheet or from the materials collected in course of investigation including the statement under Section 164 of the Code of Criminal Procedure of the opposite party no. 2 as well as from the statements recorded under Section 161 of the Code of Criminal Procedure of the other prosecution witnesses there is any whisper that at the time of making of the promise as alleged the petitioner had dishonest intention right from very inception or there was any false promise and the same was attended with mala fide or with no intention to act upon the same in future and in absence of the same no case under Sections 376/417 of the Indian Penal Code is made out.

To that effect, learned advocate for the petitioner has relied upon a judgement of the Hon'ble Supreme Court in the case of *Pramod Suryabhan Pawar -vs- State of Maharashtra & Anr.* reported in 2019

SCC OnLine Sc 1073 and Sonu @ Subhas Kumar –vs- State of Uttar Pradesh & Anr., reported in 2021 SCC OnLine SC 181.

I have considered the submissions addressed by and on behalf of the petitioner as well as that of the State.

I have also considered the statements recorded under Section 164 of the Code of Criminal Procedure as well as the allegations in the application recorded under Section 156(3) of the Code of Criminal Procedure of the complainant.

On an assessment of the same, I am of the view that the present case is not restricted to a relationship and subsequent failure of keeping up to the commitment or a case of promise to marry and its failure, but there is another fact which cannot be ignored in this case. The accused/petitioner after his own marriage forcibly entered the house of the victim/complainant and coerced her for physical relationship thereby threatening her that in case the same is divulged, he would circulate the photographs of their private moments in the social media. So far as this part of the allegation of the victim is concerned, the same is a distinct feature, which distinguishes the fact of the present case from the referred judgements. The present case, thus cannot be terminated at this stage. The petitioner, as such, would be at liberty to canvass such points at the time of consideration of charges.

With the aforesaid observations, the revisional application being CRR 2622 of 2021 is disposed of.

Pending applications, if any, are consequently disposed of.

Case diary be returned to Mr. Saryati Datta, learned advocate

appearing for the State.

All concerned parties are to act in terms of a copy of this order duly downloaded from the official website of this court.

[Tirthankar Ghosh, J]