

CRR 3536 of 2009

In the matter of : Sushil Kumar Saha & Ors.

Perused the office report regarding non service of administrative notice upon the petitioners.

This criminal revision is pending for more than thirteen years, therefore, instead of adjourning the matter *suo moto*, considering the age of the proceeding, I am inclined to dispose of the matter on merit based on materials available with the record.

Briefly stated, the opposite party no. 2 informed the Inspector-in-Charge of Kalyani Police Station, Nadia in writing that the petitioner no. 4 is his legally married wife and their marriage was registered on 01.4.2003. It was decided that after completion of her graduation his wife will come and stay with him in discharge of her marital obligation. However, on 31.7.2009, the informant came to know that his wife was given marriage to another man. On the basis of information Kalyani P.S. Case No. 408 of 2009 was registered on 31.7.2009 under Sections 494/406 and 120B of the Indian Penal Code. The offence under Section 494 being non cognizable offence police had no authority to register F.I.R. There is nothing to indicate that the accused person was entrusted by the complainant and there was breach of such entrustment, therefore, police have no reason to register case under Section 406 of the Indian Penal Code as well. The F.I.R. is a glaring example of abuse of process of law on the part of Inspector-in-Charge of

Kalyani Nadia. This amounts to deliberate misuse of power resulting in dereliction of duty.

This is a fit case to invoke the provision of Section 482 of Cr.P.C. to quash the proceeding being G.R. Case No. 966 of 2009 arising out of Kalyani P.S. Case No. 408 of 2009 dated 31.7.2009 which I accordingly do.

With this observation, the criminal revision is disposed of alongwith application if any.

Let a copy of the order sheet be sent to the learned Additional Chief Judicial Magistrate, Kalyani Nadia for information and necessary compliance.

(Siddhartha Roy Chowdhury, J.)