

IN THE HIGH COURT AT CALCUTTA

(Criminal Revisional Jurisdiction)

APPELLATE SIDE

Present:

The Hon'ble Justice Shampa Dutt (Paul)

CRR 3146 of 2019

with

CRAN 2 of 2020

(Old No. CRAN 26/2020)

with

CRAN 3 of 2020

(Old No. CRAN 278/2020)

Monu Kumar @ Abhimanyu Kumar & Ors.

Vs.

The State of West Bengal & Anr.

For the Petitioners : Mr. Pawan Kumar Gupta,
Ms. Sofia Nesar,
Mr. Santanu Sett,
Mr. Kanchan Roy.

For the State : Mr. S.G. Mukerji, Ld. P.P.,
Mr. Saryati Datta.

For the Opposite Party No. 2. : Mr. Kunal Ganguly.

Hearing concluded on : 08.08.2023

Judgment on : 05.09.2023

Shampa Dutt (Paul), J.:

1. The present revision has been preferred praying for quashing of proceedings pending before the Ld. Additional District and Sessions Judge, Fast Track Court, 2nd Court, at Asansol in connection with Jamuria P.S. Case No. 202, dated 19.06.2017, now Sessions Case No. 96 of 2019, under Sections 363/365/366/376/120B of I.P.C.
2. The petitioner's case is that the petitioner no. 2 is the old aged mother of petitioner no. 1, the petitioner no. 3 is the brother-in-law of the petitioner no.1 and the petitioner no. 4 is the married sister of the petitioner no.1.
3. The prosecution case in short is that on 19.06.2017 at about 22.15 hours, one Md. Taiyab Ali, son of Md. Hanif of Bogra, P.S. – Jamuria, Dist – Paschim Bardhaman submitted a letter of complaint stating inter-alia that his daughter (the alleged victim girl herein) went to pray at Raniganj Mazar at about 08.00 A.M. and after a considerable period of time when she did not return home, the complainant Md. Taiyab Ali and his other family members searched every possible places i.e. relatives house and friends house, but did not get to know her whereabouts. The complainant suspected that some unknown persons had kidnapped his daughter and kept her in some secret place for their ill motive.
4. On basis of the said complaint, Jamuria, Police Station started a case vide Jamuria P.S. case no. 202 dated 19.06.2017 under Sections 363/365 of I.P.C. and took up investigation of the said case and in

course of investigation, victim's father and/or complainant and his son Tarique Aziz disclosed the names of the petitioners/accused persons for their involvement in the said commission of offence.

5. It is stated by the petitioner that on 29.10.2017, the complainant Md. Taiyab Ali, his son Tariq Aziz and wife Abida Parveen with their hired musclemen being aided and abetted with deadly arms and ammunitions raided the house of the petitioners and kidnapped the alleged victim girl on the point of arms and ammunitions and also raided the house of the petitioners and kidnapped the alleged victim girl on the point of arms from her lawful husband namely Monu Kumar @ Abhimanyu Kumar, the accused person (petitioner no. 1) herein for which a criminal case vide Pusa P.S. case No. 122 dated 29.10.2017 under Sections 323/363/364/366/379/506/34 of IPC has been started against all the offenders. **Admittedly the said case being Pusa P.S. case No. 122/17 has ended in F.R.M.F.**
6. It is the case of the petitioners that as the alleged victim stated before the court that she had married the petitioner no. 1, the petitioners except petitioner no. 2 (as she had already been arrested and had been granted bail) were granted Anticipatory bail. It is further stated that on 06.08.2017 the opposite party tried to forcibly take away the alleged victim, for which she filed a case against her father, mother and brother, **which ended in F.R.M.F.**

7. **Mr. Pawan Kumar Gupta, learned counsel for the petitioners** has submitted that on the basis of such purported, vexatious complaint the impugned order as well as the proceedings is otherwise bad in law and in fact and to prevent such abuse of process of the court, the instant purported complaint and proceedings is liable to be quashed.
8. **Mr. Swaswata Gopal Mukherji, learned public prosecutor** has placed the case diary.
9. **Mr. Kunal Ganguly, learned counsel for the opposite party no. 2** has submitted that the victim had been forcibly kidnapped by the petitioners and forced to undergo the marriage **in spite of the petitioner no.1 being already married.**
10. **From the materials on record including the case diary, it appears that:-**
 - i) **The marriage certificate in respect of the marriage between the petitioner no.1 and the alleged victim (of different faith and religion) is dated 24.06.2017.**
 - ii) **The petitioners no. 3 and 4 are witnesses to the marriage.**
 - iii) The written complaint is dated 19.06.2017.
 - iv) The alleged victim's date of birth is 05.01.1999.
 - v) She was just a little over (5 months more) 18 years of age.
 - vi) **Chandni Devi, whose statement has been recorded is the wife of the petitioner no.1.**

11. There is neither any materials on record nor a prima facie case against the petitioner no.2, Indu Devi, mother of the principal accused no. 1 for the offences alleged in this case. Accordingly the proceedings being No. CRR 3146 of 2019 is liable to be quashed only in respect of accused Indu Devi (petitioner no. 2 herein).
12. There being a strong prima facie case against rest of the petitioners, their prayer for quashing of the proceedings against them is liable to be stands dismissed/rejected.
13. **CRR 3146 of 2019 is disposed of.**
14. The proceedings before the trial court being Ld. Additional District and Sessions Judge, Fast Track Court, 2nd Court, at Asansol in connection with Jamuria P.S. Case No. 202, dated 19.06.2017, now Sessions Case No. 96 of 2019, under sections 363/365/366/376/120B of I.P.C. **shall proceed in accordance with law, in respect of petitioners no. 1, 3 and 4 namely Monu Kumar @ Abhimanyu Kumar, Goutam Kumar @ Sajjan and Smt. Rimmy Kumari Gudiya and is quashed in respect of Indu Devi, the petitioner no. 2 herein.**
15. Trial Court to make all endeavor to dispose of the case expeditiously.
16. All connected applications, if any, stands disposed of.
17. Interim order, if any, stands vacated.
18. Copy of this judgment be sent to the learned Trial Court for necessary compliance.

- 19.** Urgent certified website copy of this judgment, if applied for, be supplied expeditiously after complying with all, necessary legal formalities.

(Shampa Dutt (Paul), J.)