

18.04. 2023
item No.29
Ali
Ct. no. 551

CRR 3482 of 2018
with
IA No. CRAN 1 of 2023(not here)
+
CRAN 2 of 2023

Arunava Maity & Ors.
Vs.
The State of West Bengal & Anr.

Mr. Gouranga Kumar Das.

... for the petitioners.

CRAN 1 of 2023 and CRAN 2 of 2023 are allowed and disposed of. The delay in preferring the restoration application is hereby condoned and the restoration application is also allowed. The instant criminal revisional is hereby restored to its original file and number.

CRR 3482 of 2018

The instant criminal revision has been preferred for quashing the Charge Sheet and the entire proceedings in connection with Raidighi Police Station Case No. 378 of 2017 dated 12.12.2017 under Sections 498A/406/34 of the Indian penal Code now pending before the learned Judicial Magistrate, 3rd Court, Diamond Harbour, 24-Parganas (South).

Learned advocate for the petitioners submits that the present petitioners are the husband and in-laws of the opposite party No. 2. The marriage between the opposite party No. 2 with the petitioner No. 1 was solemnized in the year 2016. Due to some family dispute the opposite party left the matrimonial home on 15.04.2017 and after long six months he lodge FIR on 12.10.2017.

It is the submission on the learned advocate for the petitioners that the allegations in the FIR is false and concocted. Nothing have been occurred as stated in the FIR. Due to some family dispute the wife (Opposite Party No. 2) left her matrimonial home. He further argued that the allegation in the FIR are general and omnibus and the statement of available witnesses collected during the course of investigation are not specific. He further pointed out that the police without conducting proper investigation submitted the charge sheet against all the accused persons. The neighbour stated before the I.O. that the present petitioner No. 1 and the O.P. No. 2 were residing separately after married. Thus, the allegation against the in-laws cannot be substantiated. He further argued that if the instant criminal proceeding is allowed against the present petitioners that would be tantamount to be an abuse of process of court. He prayed for quashing.

Learned advocate appearing on behalf of the State submitted the C.D. and the Memo of Evidence including the status report. He argued that the police took up the investigation of this cases. During the course of investigation, the statement of available witnesses were recorded under Section 161 Cr.P.C. The allegations against the present petitioners are prima facie made out. Thus, the police has submitted a charge-sheet against all the petitioners. He further argued that the case is fixed for evidence before the learned trial court. At this juncture, the proceeding cannot be quashed.

Heard the learned advocate perused the FIR it appears that the O.P. No. 2 has lodged the FIR with the O.C. Raidighi, PS in the month of October 12, 2017. It has been stated in the FIR that

she left the matrimonial home on 15.04.2017 with a fear that he may be killed by the present petitioner. There are allegations in the FIR regarding physical and mental torture inflicted upon the de-facto complainant at her matrimonial home. It has been also alleged in the FIR that the present petitioners instigated her to commit suicide. In perusing the CD, it appears that during the course of investigation the statement of father, mother and brother of the de-facto complainant were recorded under Section 161 Cr.P.C. They supported the prosecution case.

The statement of the neighbor also stated that the de-facto complainant left her matrimonial home due to fear of her killing. The materials appeared in the C.D. prima facie made out the offence under Sections 498A/406/34 of the Indian Penal Code against all the accused persons. It further appears that the date has been fixed before the learned trial court for evidence. In exercising the power of this court under Section 482 Cr.P.C. for quashing the proceeding, it appears that the criminal proceeding can only be quashed if the allegations in the FIR cannot be substantiated by collection of evidences. The instant case is not a such nature that the allegation of the de-facto complainant are baseless or highly improbable. However, the evidence collected by the I.O. during the course of investigation cannot be looked into to ascertain their correctness and validity.

Thus, I find no merit to entertain the instant criminal revisional application for quashing the instant criminal proceeding.

Accordingly, the instant criminal revisional application is dismissed.

The CRR 3482 of 2018 is disposed of.

Any order of stay passed by this Court during the continuation of the proceeding of the revisional application is also vacated.

All connected applications, if pending, are also disposed of.

Learned Magistrate is directed to dispose of the instant complaint case as early as possible more preferably within six months from the date of receipt of this order.

Let a copy of this order be served upon the Learned Magistrate through learned District Judge for proper compliance and effective disposal of this case.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Subhendu Samanta, J.)