

CRR 3698 of 2010

In the matter of : IFTAKHAR ALAM

Mr. Milon Mukherjee, Sr. Adv.
Mr. Biswajit Manna ... for the petitioner

Mr. Madhusudan Sur, Ld. APP
Mr. Manoranjan Mahata ... for the State

This application under Section 482 of the Code of Criminal Procedure is the manifestation of displeasure of the petitioner over the proceeding being Beniapur (Section 'R1') Police Station Case No. 36 dated 03.02.2006 registered under Sections 498A/406/379/34 of the Indian Penal Code initiated at the behest of Ishrat Jahan Alam.

Briefly stated on 03.02.2006, Ishrat Jahan Alam informed the Officer-in-Charge, Beniapur Police Station in writing about her plight, stating inter alia that she was married to Iftakhar Alam and their marriage took place in the United States of America where the groom used to work. On 21.01.2004 a female child, Afrah Alam was born to them. After few months of the birth of child she was subjected to torture by her husband, both physically and mentally. She informed her brother about her plight, who came to the United States of America and talked to her husband. On 18.10.2005 she was sent back to India with her daughter by her husband who made her understand that he would follow them in a couple of days. On their way to New York airport from this

apartment her husband got some blank papers, cheques and joint account book signed by her. At the relevant point of time she had 15000 US \$ in the account. She obliged her husband. On 19.10.2005 she and her daughter Afrah arrived in Kolkata and started staying with her mother at Garden Reach. On 23.11.2005 her husband also arrived and went to his father's house at Park Street. On 09.12.2005 her husband left for the United States of America and took with him the passport of the informant and her daughter as well as the green card. On the basis of such information Beniapukur P.S. Case No. 36 was registered on 03.02.2006 and police took up investigation which culminated into submission of charge sheet against four accused persons including the petitioner before this Court.

From the attending facts of this case, I find that the marital knot between Ishrat Jahan Alam and the petitioner Iftakhar Alam has been dissolved by a decree of divorce by the competent Court in the United States of America. The decree of divorce was passed on 19.9.2017.

Drawing my attention to the said document Mr. Milon Mukherjee, learned senior counsel, representing the petitioner submits that admittedly the couple were not staying together since January 15, 2005. Information given to the Officer-in-Charge of Beniapukur P.S. on 03.2.2006, unerringly indicates that the informant does not have faith in truth. However, in course of investigation no attempt was made even by the I.O. to unearth the truth. The charge sheet, therefore, is nothing but figment of imagination and fainted.

Drawing my attention to the content of the written information, Mr. Mukherjee further submits that alleged theft of 15000 US \$ if taken on the face value was committed in United States of America, beyond the jurisdiction of the Court competent to try the offence.

Refuting the contention of Mr. Mukherjee, Mr. Sur learned Additional Public Prosecutor representing the State submits that investigation was conducted fairly by the police and materials collected during investigation is sufficient to justify the action of police who submitted charge sheet after investigation. My attention is drawn to certain relevant pages of the case diary.

When the document relating to the divorce between the parties indicates that the informant and her husband were not staying together since January 2005; the allegation of committing theft on 19.10.2005 appears to be a cock and bull story on the face of it. The informant stated that while leaving India her husband took her passport and the passport of their daughter with him. If that be so then how could the informant present her before the competent Court where the divorce petition was disposed of in September 2007. It is not an enigma; it speaks of the lack of faith in truth, on the part of the informant. That apart, way back on 25.4.2017 the Beniapukur (Section 'R1') Police Station Case No. 36 dated 03.02.2006 was quashed qua the other accused person.

Upon perusal of decree of divorce, I do not find anything to indicate that the de facto complainant reserved her right to continue with any proceeding including the one under consideration after dissolution of marriage though the couple came

to a settlement on various issues including the maintenance and custody of the child.

Under such circumstances, I am of the view that it is a fit case to invoke the provision of Section 482 of Cr.P.C. to quash the proceeding which is manifestly attended with mala fide and secure ends of justice same should be quashed, which I accordingly do.

Let a copy of the order be sent to the learned Trial Court for information and necessary action.

Urgent Photostat certified copy of this order, if applied for, be given to the parties, upon completion of requisite formalities.

(Siddhartha Roy Chowdhury, J.)